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The French Parliamentary Committee System

BY

R. K. GOOCH, D. PHIL. (OXON.)

PROFESSOR OF POLITICAL SCIENCE
IN THE
UNIVERSITY OF VIRGINIA



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To
W. G. S. ADAMS
Warden of All Souls College
Sometime Gladstone Professor of Political Theory and Institutions
in
Oxford University

PREFACE

THE present study was begun in 1922. As a result of investigations in France extending over parts of about two years, a manuscript of some five hundred typewritten pages was prepared. This was approved as fulfilling the requirements for the degree of Doctor of Philosophy at Oxford University. Ten years later, the University of Virginia Institute for Research in the Social Sciences made possible such investigations as were necessary to supplement those already undertaken and to bring the study up to date. As a consequence, the manuscript was rewritten.

A study of the committees of the French parliamentary system is without much doubt an excellent introduction to the study of government in France. The present monograph attempts to deal with the committees of the Chambers of the Third Republic and with the relationship of those committees to parliamentary government as it is practised in France. Manifest advantage attaches to limiting the study in this way; whereas the disadvantages, even in the historical chapter, are no greater than those of any attempt to pick up the thread of history at a given point. The French word *commission* is translated uniformly by the familiar English word *committee*. Though the matter is doubtless arguable, there can be little question but that this is as nearly accurate as any translation can be. Students of French will think of many French and English words which exist in identical form in the two languages but in respect of which one is not the best translation of the other. For reasons which need not be here set out, most of the comparative and statistical material in the original study has been omitted from the study in its present form.

The importance of the subject of the French committees was first suggested to me by Professor Lindsay Rogers. The general plan of the study was also outlined in discussion with him. I thus owe him a debt of long standing. From the inception of the work until the present day, I have in a degree which cannot be expressed profited from the wisdom and the encouragement of the present Warden of All Souls, W. G. S. Adams. The dedication of this book to him is an insufficient and unworthy tribute.

I owe many other acknowledgments, some of which must be specific

cally mentioned, though, of course, no one save myself is responsible for the shortcomings of the present book. I received from the late Sir Paul Vinogradoff valuable assistance in the earlier part of my undertaking. I could not overstate my indebtedness to Professor Harold J. Laski. He twice read critically my manuscript in its original form; his suggestions were of the highest value; and his encouragement has been continuous. In France, I was in the beginning received most courteously and sympathetically by M. Gaston Jèze and M. Joseph-Barthélemy, professors in the Faculté de droit, Paris. Every demand on their time since has been met with unfailing kindness. I have been greatly aided by them personally as well as by their scholarly works. In the case of M. Joseph-Barthélemy, I greatly regret that his recent volume on the French committee system came into my hands too late for me to make the thorough use of it I should have liked; yet my indebtedness to this and to his other works is evident on almost every page. In this country, Professors C. P. Patterson, Charles E. Merriam, and Kenneth Colegrove kindly read my original manuscript. Professor Colegrove has likewise read the manuscript in its present form. I am immensely obliged to him for his encouragement and exceedingly valuable suggestions. The editors of *Economica*, of the *Virginia Law Review*, of the *American Political Science Review*, and of the *Political Science Quarterly* very kindly gave permission for the substance of parts of articles in those publications to be reproduced here. Likewise, I could not and would not neglect to acknowledge the important part played in the preparation of my work in earlier years by the sympathy and friendship of Professor W. Y. Elliott and Dean Charles W. Pipkin. Finally, I should like to set down here an expression of my appreciation of and gratitude for the highest good-will and good humor on the part of the Director of the Institute and on that of the young ladies in the office of the Institute.

R. K. G.

University, Virginia

BIBLIOGRAPHICAL NOTE

OF the "primary sources" for a study of parliamentary committees in France, the codes of working rules in the Chambers, *Le Règlement de la Chambre des députés* and *Le Règlement du Sénat*, must be given first rank. The most recent editions of these little books are readily available. For French règlements preceding those at present in force, Bonnard, *Les Règlements des assemblées législatives de la France depuis 1789* (Paris, 1926) is a convenient and valuable collection. This book contains the texts of règlements, of amendments, and of the principal unsuccessful proposals for change, together with short historical comments.

In such a study, especially on the historical side, parliamentary documents and debates are, of course, indispensable. In connection with a given subject, like that of parliamentary committees, a formal proposal is printed and included amongst the collected documents. Such a proposal must be preceded by an *exposé des motifs*. This is often exceedingly thorough and may be of much interest and value. The document, therefore, is made up of the *exposé des motifs* and the text of the proposal. If a given proposal is reported by a committee, the committee report, often very elaborate, is in due course printed. It, like the proposals, may often be had separately printed; but it is regularly contained in the collected documents. Such documents and a transcript of the debates of both Chambers are to be found in the *Journal officiel de la République française* (J. O.). Volumes are bound in somewhat different ways at different times and in different places. However, after the first few years of the Third Republic, the debates in any year are generally separated from the documents, Chamber debates and documents from Senate debates and documents, and, in the several cases, the regular session (S. O.) from the special session (S. E.). Documents are normally dated on the day they are ordered to be printed and distributed. The *in extenso* report of any sitting is to be found in the *Journal officiel* of the following day.

The records of committee meetings are not highly satisfactory. The meetings are not public, nor are their somewhat scanty minutes. A kind member of the Secretariat of the Chamber of Deputies placed at the disposal of the writer certain minutes of grand committees. They are

contained in note-books of about 195 unnumbered pages. On the whole, they are very little more informative than the public accounts of committee meetings published since 1928 in *Bulletin des commissions*.

In connection with public finance, the Report of the Extraparliamentary Committee of 1913 (*see* Ch. VI, *infra*) is an important document. The report was presented in 1914 and published in 1917. The minutes of the committee were not published. They were kindly furnished to the writer by M. Jèze.

The various *fascicules* of *État des travaux législatifs de la Chambre des députés . . . dressé par les soins du Secrétaire général de la Présidence* are of some importance. They give, though not in very convenient form, a list of the various measures pending in or recently reported by the several committees.

Various works are cited in the notes of the present study. Many others could be mentioned but for limitations of space. The bibliographical question in respect of any work like the present is fortunately much simplified by the existence of A. Grandin, *Bibliographie générale des sciences juridiques, politiques, économiques et sociales de 1800 à 1925-1926* (3 vols., Paris, 1926). It is kept up to date by supplements.

On the whole, the standard works on French constitutional law have not given to legislative committees the attention they would seem to deserve. M. Joseph-Barthélemy, however, is in this respect a marked exception. He has borne witness to the importance of the subject in his numerous scholarly works; and his most recent book is a handsome volume wholly devoted to the subject.

Much valuable information is to be found in the classic work on parliamentary law by the late M. Eugène Pierre. His two bulky volumes are storehouses of precedents on every conceivable point connected with parliamentary procedure. They remain, however, essentially a work of reference. The sections of the first volume, the main work, and of the second, the supplement, correspond in number; so that reference may be made to both by one annotation.

A not inconsiderable number of French university theses may be consulted on several aspects of parliamentary procedure and committees. That of M. André J.-L. Breton probably deserves special mention, partly because the author is the son of one of the foremost parliamentary students of French procedure and partly because he has himself recently played an important part in the Chamber of Deputies as a member and reporter of the committee on the *règlement*.

Naturally, numerous articles in French and, in lesser degree, in English are to be found in learned reviews, magazines, and newspapers.

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THE FRENCH PARLIAMENTARY
COMMITTEE SYSTEM

INTRODUCTION

THE FRENCH CONSTITUTIONAL SYSTEM

A STORY has been many times told how a French bookseller, when asked on one occasion for a copy of the French Constitution, replied that he did not deal in periodical literature. This anecdote embodies a reference to an important formal fact in French political history and, at the same time, indicates a prevalent attitude toward that fact. France has possessed a large number of constitutions. Likewise, it has adopted many of them at short intervals one from the other. This rapid succession of constitutions has caused a propensity for change to be regarded by many as a national characteristic. Furthermore, the experience of France has in large measure been with written constitutions, and this has served to give to change a more concrete appearance. The final result has been that in popular estimation France is often conceived as a land of revolution and as a country where instability in matters of government is the general rule. It has been the custom in the past—and even at present it is difficult to break with fixed habit—to expect swift and sudden change in the place of steady and gradual development.

In marked contrast with this apparent lack of unity and of orderliness in French political experience, at least two important and interesting considerations suggest themselves. The first is the fact that France has assumed a position of leadership in evolving modern political ideas. The second is the relatively long life of the Third Republic.

The part which has been played by other nations in matters of government need not be minimized in order for the fact to be recognized that on the continent of Europe the influence of French practice and opinion has been greater than that of any other country. The very tradition for revolution has caused France to be looked upon as a land of political progress; and if this progress has in the past been realized through violent change, the fact none the less remains that advance was actually made. Through and under all the confusion principles were operating which have had an influence so far-reaching as to be easily discernible at the present day. The forces unloosed at the time of the Revolution were of course numerous and powerful. From a political

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point of view, it is clear in retrospect that France had to reach and to maintain an equilibrium between the various forces involved, if constitutional stability was to be established. This must have appeared at the time very difficult, if not impossible. Only with time was such a balance of forces struck as to render realizable a more orderly development.

Most people probably believe now that the Constitution of the Third Republic is unlikely to be disestablished from the firm position in which it has become entrenched. The present system of government in France has remained in operation for more than half a century. Under it France has experienced a period of considerable prosperity at home and has gone far toward reestablishing abroad an empire the shattering of which was one of the circumstances preceding and leading up to the adoption of the present Constitution. Under this same governmental organization France emerged victorious from the greatest war in history. The edifice, it is true, has been compelled to bear up under formidable strain. In common with the experience of other countries, it has shown signs of tottering in its place; but so far it has been more successful than many in standing firm. Few except habitual alarmists would be inclined seriously to predict that it will fall on its foundations.¹ Yet the story is familiar how a little more than fifty years ago the present Constitution was set up in conditions which, far from offering hope of the permanence that has been actually experienced, appeared such as to support the belief that only another stage in the series of rapid changes was to have its short day.

The events immediately preceding and attendant upon the formulation of the present French Constitution are in their general outline readily to be recalled. The assembly which established this Constitution and which set up definitively a republican form of government in France contained in it a considerable majority of men who were believers in monarchy. As chance would have it, disagreements amongst the elements of the monarchist majority made it possible to establish a republic which the majority confidently expected to supplant at an early date with a government more in keeping with their own ideas. Fate also willed that the temporary and provisional Constitution at that time adopted should experience a duration of greater length than any other French constitution since the outbreak of the Revolution. The very characteristics which it was thought would render the Constitution

¹ This conclusion is supported by the fact that the fall of M. Doumergue in the autumn of 1934 was not attended with the dire consequences confidently predicted even by persons who are not habitual alarmists.

temporary have proved the germs of its permanence. Conditions which appeared calculated to bring to an early end a transitory system of government in reality favored at last the equilibrium of certain forces set in motion by the Revolution. They made possible the stability necessary to orderly political development.²

From a constitutional point of view, two general tendencies may be observed to have been in operation during the years following the outbreak of the Revolution. On the one hand, a strong tendency manifested itself in the direction of government by a sovereign assembly of the representatives of the nation. On the other hand, executive rule so strong as to warrant being denominated dictatorship, at times taking the form of personal rule by a powerful chief of state, was on occasion definitely, if temporarily, the accepted practice. Experience appeared to demonstrate that these two tendencies were fundamentally and mutually antipathetic. A quick succession of constitutions was the manifestation of their alternate triumphs. Retrospection suggests that these tendencies had as a beginning to reach a point of equilibrium, if stability was at last to result. Furthermore, the equilibrium which was temporarily established following the Restoration and which was succeeded by another cycle of the same opposite tendencies suggests the need for a firmer basis, apparently in the form of universal suffrage, on which equilibrium must rest.

A commonplace which foreigners readily accept from the French would have it that French temperament is such as to demand a rigid adherence to abstract principle and an uncompromising employment of logic and reason. In the constitutional realm, this has meant the very opposite of a willingness to seek a balance between counteracting forces; for a constitution ought, in this conception, to be based on a single principle, and its structure ought to present the appearance of a symmetrical and finished whole. On the other hand, the Constitution of the Third Republic is in this respect exceptional; and therein has apparently lain its unexpected strength. The Constitution was felt to be provisional because circumstances had rendered a majority among its framers unable completely to construct an edifice according to their own fixed conceptions. This majority found itself constrained, temporarily as it believed, to accept certain parts of a structure which in turn would doubtless have been erected in its entirety had the minority been arbiters. The result was an incomplete and unsymmetrical structure; and yet elements which experience had shown to be incapable of stand-

² Cf. in this respect the views of Hauriou, *Précis de droit constitutionnel* (2^e éd., Paris, 1929), pp. 293 *et seq.*

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ing firm alone proved to have found in combination the real secret of strength.

Through the employment of a combination of three standards of classification France may be said to be a unitary, parliamentary republic. Perhaps in no other country does so much peculiar significance attach to each of the three elements of this designation.

The distinction between the republican and the monarchical forms of government tends more and more to become a formal one. In a free government, the name which is bestowed upon the chief of state is a matter of relative unimportance in comparison with other considerations of greater moment. At the same time, the associations of monarchy and the traditions connected with republicanism will probably prevent the terms from ever becoming mere names. This is by no means least true of France. There republicanism signifies definitely a tradition rather than a form of government. As a tradition it is inextricably connected with the growth of democracy. The successive stages by which this growth took place in France were marked by well-known revolutionary efforts.³ These attempts at revolution were made by republicans; for, among other things, the republicans alone were organized for revolution. Each temporary success involved the temporary success of formal democracy. However, absence of the substance of democracy allowed reaction to destroy, likewise temporarily, even the form of democracy. Republican organization was consequently also destroyed for the time. When it had recovered, it advanced to a new attack. Finally, at the time of the establishment of the Third Republic, the substance of democracy in the country had become realized on a sufficiently wide-spread scale for republicanism to be able at last to maintain its success against reaction. Republicanism and democracy had become inseparable allies.

In a certain sense the republican tradition is now based on a negative conception. It means in a measure that another form of state must above all things be avoided. Republican by a kind of accident at the beginning of the last quarter of the nineteenth century, France possessed statesmen who made it their first care to establish republicanism as the definitive form of government; and when opinion in the country had sufficiently developed, these statesmen wrote into the Constitution a provision that the republican form of the state should never be subject to revision. By the use of this political expedient, republicans gave

³ Cf. for an interesting interpretation of this kind Ch. Seignobos, *Histoire politique de l'Europe contemporaine* (7^e éd., 2 vol., Paris, 1924), t. I, pp. 278 et seq.

a seemingly legal character to the permanence of the Republic, and at the same time they left to advocates of other forms for the state no other means of action than revolution. Accordingly, republicanism is constitutionally identified with order and stability. Anything or everything else is made to signify violence and anarchy. In this way, republicanism is allotted limits just wide enough to admit of both order and ordered change. Large numbers of persons, it is true, who consider themselves the only true republicans insist on the full implication of the famous dictum of M. Léon Bourgeois that to accept the Republic is to accept the Revolution. On the other hand, the influence of supporters of the Republic who are less passionate admirers of the Revolution in all its aspects has been far from negligible. More especially, this influence has played a part of paramount importance in maintaining the parliamentary system of government in France and in adapting it to the conditions and needs of the country. Thus, in the end, support of a régime and support of a form of government have become closely interconnected. Efforts during more than fifty years firmly to establish the Republic, definitively to confirm it as the permanent form of the French state, and watchfully and vigorously to protect it against its real and imagined enemies have in reality all worked in favor of the parliamentary form of government.

The practical identification in France of republicanism, democracy, and parliamentary government causes special significance to attach to the classification of government in that country as parliamentary in type. More especially, the identification explains the fact that France is in a very definite sense the prototype of parliamentary government on the continent of Europe. England, it is true, has been regarded in France, as elsewhere, as the Mother of Parliaments.⁴ At the same time, France, though both a conscious and an unconscious borrower from England, has not always accepted the forms of English government; and still more often it has failed to adopt, along with its forms, the spirit of the British Constitution. In the result, France may be considered to possess its own indigenous variant of the parliamentary system. This variant, largely perhaps on account of its close association with democracy, is what is thought of on the continent of Europe as parliamentary government.

Fundamentally, parliamentary government is to be contrasted with what may be called the presidential type of constitutional organization.

⁴ It is apparently the custom in France to ascribe this maternity to the country rather than to its parliament.

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Both are possible solutions of the fundamental problem of the relationship which is to be established between the legislative and executive branches of government. The parliamentary type represents a natural and a highly flexible arrangement in this respect, whereas the presidential type, based on a special interpretation of the doctrine of the separation of powers, appears in comparison rigid and artificial. The characteristic features and the underlying principles of parliamentary government can perhaps never be assumed to be so familiar that their reëxamination is rendered wholly unfruitful.

Parliamentary government in England is its classic example largely because its most distinctive elements were evolved there in a slow and natural development. If certain parts of the English Constitution are at times explained as accidents of history or the outcome of peculiar national characteristics and conditions, an understanding and an appreciation of parliamentary government in what may be considered its purest form are none the less to be sought in the constitutional history and practice of England.

The characteristic institution of the English parliamentary system is the Cabinet. This small group of men who are legally royal ministers and by strong and binding convention members and leaders of the legislature forms a connecting link between the traditional sovereign, which is the Crown, and the real seat of the supreme power emanating from the people, which is Parliament. The members of the Cabinet, collectively and individually, govern the nation in exercising on behalf of the Crown the elements of the formidable royal prerogative and of the added statutory Crown powers; and one element of their strength is the historic and traditional position of the executive as personified in the wearer of the crown. The members of the Cabinet are also the leaders of those who compose Parliament or, more specifically, of those who form a majority of Parliament. As such they are able to direct the activities of the law-making body in a fashion which appears best calculated to ensure the successful completion of the business of governing. This is a second element of strength in the Cabinet.

The Cabinet, however, remains responsible to Parliament. It governs the nation only so long as it retains the confidence of Parliament, which may at any time substitute for it another group of governors. At the same time, the Cabinet is by no means subordinate to Parliament; for the parliamentary system has as its ideal the nice balancing of these two elements.⁵ If one of them becomes of preponderating weight in the state, the system is to that extent thrown out of equilibrium. Instead

⁵ Cf. Redslob, *Le Régime parlementaire* (Paris, 1924), p. 1.

of collaboration on the part of the organs of government, there results a confusion of powers; and the fundamental basis of the classic conception of parliamentary government is in that degree undermined. It may be in a sense true to say that the parliamentary system is a negation of the principle of the separation of powers; but this ought only to mean that the executive and legislative are in close contact and in accord and not that one of these elements has secured a position of supremacy over the other. Thus, in England, though the Cabinet governs only at the pleasure of Parliament, this in no way means that the Government must remain the tool of the legislature or be turned out of office according to every whim of the representatives of the people. On the contrary, any tendency which manifests itself for the balance of power to be dislocated is recognized to be in the direction of too great authority for the executive. At all events, the Government possesses a position which rests on a tradition of strength and stability; it has been accustomed in a real sense to lead and not merely to follow; its members are trusted chiefs of the stronger of two well-organized and well-disciplined parties, which have been in the past a distinctive feature of parliamentary government in its more normal periods; and even from a decision of Parliament it may appeal its case to the electors. This is not a position of subordination and of subjection; it is a position of equality and of strength. It means in practice that the Cabinet, though constantly conscious that its actions will be subjected to the bright light of criticism and of publicity through the efforts of an organized and disciplined opposition, possessed of a program with which it is willing to undertake the government of the country, none the less confidently expects and receives the support of a compact majority of the legislature for the broad lines of its policy. Discipline obviates fickle defection, and the prospect of an appeal to the people prevents the petty abuse of legislative power.

The principal respects in which parliamentary government in France tends to be at variance with the principles of its operation in England are frequently described. There is no doubt but that in France a shifting of forces and a development of tendencies have occurred which cause the French parliamentary system to appear in somewhat marked contrast with English experience and practice. In a sense, this simply means that the French variant of parliamentary government deserves in its own right an examination which transcends the negative character of mere contrast.

French comment on the admittedly weak position of the executive in the French parliamentary system frequently stresses the important

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connection between republicanism and parliamentary government in France. This comment probably overestimates the extent to which monarchy as such endows the executive with a kind of natural strength. On the other hand, no comment could easily exaggerate the importance in fact which the republican tradition attaches to the legislature. Republicanism and parliamentary government being identified in this respect with democracy, opinion concerning them must be viewed in the context of concepts like universal suffrage and the sovereignty of the people, with all that is involved of French history and character. The strong appeal to all classes of the people of the abstract aspect of these notions inevitably results in increased authority of the representatives of the people. By the same token, like considerations give rise in practice to a traditional and instinctive distrust of the executive branch of government in France. Republicanism may perhaps be regarded as keeping alive a suspicion which attaches to agents who exercise elements of power associated with royal prerogative. At all events, a distinct tendency for the legislative branch of government to become the preponderating power in the state has served to maintain the executive in this unfortunate position. There devolves upon the legislative branch of government a corresponding obligation which is perhaps impossible of fulfilment and a responsibility which has little meaning when applied to a large body of men.

A numerous aggregate of individuals assumes a semblance of unity primarily through discipline. If the generalizations made concerning themselves by the French may be believed, true discipline is such a rare phenomenon in Parliament that absence of it may be considered a normal condition of political life in France. During the years of the Third Republic, an extreme individualism, it is said, has been a marked characteristic of French governors and legislators; and discipline has in the result been all but unknown. The basis which discipline requires is, of course, a restraint imposed on the individual and willingly accepted by him in what is conceived to be the interest of a large and important whole. According to appraisals which are encountered in France, the principal and for the most part the only restraint which French individualism has accepted is that which grows out of the institution of a formal and perhaps exaggerated politeness and courtesy which determine that a given individual is unwilling to perform any action which may involve any restraint on the extreme individual freedom of another. This trait, superficial though it may appear, is asserted to be an important consideration in French parliamentary life. Such legislative institutions, for example, as the closure and limitation on

individual initiative, which must, of course, be applied in order to be of value, are rarely employed because authority to apply them is usually lacking in the presence of the idea that thus to interfere with the freedom of action of an individual is impolite and discourteous. In a broader way, similar considerations explain the absence of any well-organized political party large enough to secure a majority in the Chamber of Deputies. The consequence is a lack of real leadership and of definite and continued responsibility in government.

Ministerial responsibility tends in France to mean for the Government a short life, complete subjection to a stronger power, or both. In such conditions, for the Ministry really to govern the country is impossible. It cannot rely on a compact and disciplined majority, for its position rests on the support of an unorganized coalition of uncertain groups. It is unable to give its whole attention to the fulfilment of a program of action or to devote all its efforts to the direction of the broad policy of government, since the possibility that a fall will result from an incident of minor importance renders the retention of office a primary consideration. An imperfect institution for making an appeal to the people has almost from the beginning remained in a state of desuetude. Increasingly serious efforts to revive it are not yet certain to succeed.⁶

The political groups in the French Chambers are far from corresponding in most cases to organized political parties in the country. Exceptions, of course, exist; but in general the groups vary in number, in size, in composition, in leadership, and in program. Even in France only the initiated are able to comprehend the fine shades of difference separating some of these groups. As is well known, members of each of the two Chambers sit in a semicircle facing the presiding officer; and opinion shades off from the most conservative on the President's right to the most radical on his left. During the Third Republic there have been at each of the ends of this semicircle bodies of opinion which would in the United States be called irreconcilable, that is to say, opinion which is not agreed in supporting the existing Constitution. Opinion at these two extremes favors some form of government which is not parliamentary in character; and it advocates direct action for accomplishing its purpose. Hence, the advocates of such opinion could not come into power without overturning the constitutional system. The result is that the seat of political power must remain within a large segment of the semicircle bounded by two narrow

⁶ The failure on the part of M. Doumergue to accomplish this basic reform will doubtless discourage most statesmen from similar efforts.

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segments at each end. The conventional division of the large central part of the Chambers into Right and Left⁷ corresponds accurately enough to a tendency toward a fundamental division of opinion in respect of basic political, social, and economic principles. This dichotomy, however, has not yet given rise to effective organization. Whether or not the regular employment of dissolution of the Chamber of Deputies would result in such organization remains a question in the realm of the hypothetical. So far the nearest approach to this result has been the formation at times of parliamentary *bloccs*. This phenomenon has, on a few occasions which may be regarded as exceptional, caused political power to pass from one side of the Chamber to the other, somewhat in the manner which is familiar in England. However, a symbolic representation of normal development would give a different impression. There has been for the most part a gradual and steady movement of the seat of power from right to left round that part of the semicircle removed from the extremes. Moreover, corresponding to this movement from right to left, a shifting of given groups from left to right has also taken place, caused by the appearance of new groups on the far Left, which, in demanding room for themselves, have pushed other groups to the right of their former position. On this shifting and uncertain basis Governments have had to establish their unstable position, supported by uncertain and shifting coalitions. Beneath the surface, it is true, of weak and falling Governments a fairly unified and uniform legislative output has in practice been realized. This has with some accuracy reflected the steady growth and development of political opinion. It is the basis for an apparently paradoxical dictum sometimes encountered that in the last half-century France has been the country of greatest governmental stability.⁸ As the seat of political power has moved to the left, the center of gravity in the governmental system has shifted to the Legislature; and the Legislature has organized itself and consolidated its position in such a way that, while maintaining the Executive in a position of dependence, it has been able itself to follow a policy approximately reflecting the wishes of the country.

The French variant of parliamentary government is affected in an interesting way by the unitary organization of the French state. In

⁷ This is not meant to imply that the extreme elements mentioned are not usually regarded as parts of the Right and Left respectively but merely that a Government of the Right or a Government of the Left can count on coöperation only from elements relatively closer to the center.

⁸ Cf. Shotwell, "The Political Capacity of the French," *Political Science Quarterly*, Vol. XXIV, No. 1, March, 1909, p. 115.

theory, of course, two standards of classification are involved; and between them no necessary connection exists. At the same time, from a practical point of view, modification of the parliamentary system in France has been in part caused by an unusually close bond between central and local government. The extreme centralization of the French administrative organization gives to the Executive, which in French tradition exercises the control involved, a position of immense potential force. A powerful Legislature, however, is unwilling to see this potentiality fully realized in practice. Consequently, the weak position of the Government appears in a more pronounced light through a marked discrepancy between potentiality and reality.

Paris is in an unusual degree the capital of a nation. In matters of government, the capital city is the center of all things. From it there radiates to the farthestmost corners of France an immediate or ultimate control of every question other than the very unimportant. The department is an artificial unit, without tradition and for the most part without corporate spirit. It is a convenient subdivision of France in the administering of its affairs from Paris. Not the least important result of this situation is the fact that revolutionary efforts in France have for the most part meant an attempt to gain control of the capital; for once the center of administration has fallen into the hands of advocates of a new régime, command of the remainder of the country follows as an inevitable consequence. Hence, such change has meant little more than a difference at the top. The administrative organization of the nation has undergone practically no fundamental change in more than a hundred years.

Extreme centralization in France is at the same time a source of weakness and of strength. If the opportunity for successful revolution seems greater, life in the nation, on the other hand, feels less strongly the shock of change. Accordingly, the stability which France has had the good fortune to experience since the establishment of the Third Republic has resulted from an equilibrium of forces established at the center of the state, that is to say, from a successful organization of the central government. The supposedly provisional Constitution of the Third Republic neglected, as a matter of fact, to concern itself with those local institutions which de Tocqueville insisted to be the vital elements in the composition of any nation.

The present Constitution of France in reality consists of three Constitutional Laws which were passed by the National Assembly in 1875 in the form of ordinary statutes. This custom of referring to three laws

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as if they were one is practically all that serves to satisfy the demand of French temperament for uniformity and symmetry. The Constitution of the Third Republic presents more points of contrast with than resemblance to the best-known "written" constitutions of France and of other countries. It is, if anything, still more unlike the English Constitution.

The conditions in which the Constitutional Laws were formulated and adopted resulted in several striking omissions. Perhaps the principal example was the failure to incorporate into the provisions of the fundamental law the regulation of the whole administrative organization of France. Again, no declaration or bill of individual rights was formulated; for though French love of abstract principle demands the presence of this element in any constitution which pretends to be a work of art, there was no need for such an element in a practical scheme for organizing the exercise of the public powers. Moreover, some students argue that the inclusion of this element was the less necessary inasmuch as the Declaration of Rights, according to this view, is in any case binding in the absence of formal repeal. In the third place, no provisions regulating the national judicial system are contained in the Constitutional Laws. The outbreak of the Revolution saw the judiciary in conflict with the executive. In succeeding years the ascendancy of a powerful Chief of State resulted in the reduction of the judicial power to a position of subordination. At the present day, the view prevails in some quarters that in the future part of the hope for governmental stability in France lies in a strong, upright, and respected judiciary.⁹ However that may be, the task of the statesmen of the National Assembly was to establish equilibrium between two stronger forces. Accordingly, such organization of the judiciary as was already in operation was left to develop untouched by constitutional provision.

The conditions which existed at the time of the National Assembly of 1871 also explain the matters which were considered worthy of inclusion in the Constitution. A certain definite minimum was demanded in this bare outline of a framework of government. France was provisionally to be a republican state, and so the office of President of the Republic was confirmed and regulated by the Constitution. Yet a majority of the National Assembly confidently expected that a monarch would in no long time step into the shoes of the President; and hence the latter was given a potential dignity and a theoretical power which,

⁹ This question, of course, came into special prominence in connection with the crisis of the early part of 1934.

embodied in a royal person, would have resulted in a position for the chief of state by no means despicable. This same majority, while recognizing the necessity for a popular chamber representative of universal suffrage, demanded a second chamber, not so much as a tribute to the abstract value of a bicameral legislature as through a desire to establish a conservative institution favorable to the future monarchy. Accordingly, most of the details of the organization of a Chamber of Deputies were left to future legislation; but all of one of the three Constitutional Laws was devoted to a Senate. Though much of the Law on the Organization of the Senate was subsequently repealed in order to secure more symmetry of the structure by leaving, as in the case of the Chamber of Deputies, most details of Senate organization to ordinary legislation, the Senate remains a stable and stabilizing element in the state. And, finally, monarchists and republicans, through opposite hopes which each entertained concerning the future, joined to write into the Constitution a method for revising the fundamental law which was calculated to render amendment simple and easy.

According to the principles of analytical jurisprudence, legal sovereignty in France resides in a National Assembly composed of the Senate and Chamber of Deputies sitting together by mutual agreement of the individual Chambers. To the potential accomplishment of this National Assembly there is no legal limitation other than the doubtful constitutional provision that the republican form of government shall never be subject of amendment. It would appear, therefore, that since only formal distinctions, like an adjournment to Versailles and a joint sitting of the Chambers, distinguish the National Assembly from Parliament, Parliament is for practical purposes the legal sovereign in the state. This is after all merely a reiteration of the political fact that the center of gravity in the governmental system has shifted to the legislature. As a matter of fact, the National Assembly has not in actual practice been often called into play. The explanation for this, moreover, is to be seen not only in the fact that the conservative Senate hesitates to go into National Assembly, where its smaller size puts it at a disadvantage in relation to the Chamber of Deputies; it is rather to be found in the important fact that the limited scope of the Constitution makes it possible for Parliament to accomplish by statute, as in Great Britain, fundamental and far-reaching change which is usually to be brought about in countries with a "rigid" constitution only by a more complex process. In this way, the provisions of the Constitutional Laws of 1875 are supplemented by statutes of a fundamental character, sometimes called "organic laws," which have been passed by the Parliament es-

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tablished by the Constitution, just as the Constitution assumes the existence and validity of laws passed previous to the establishment of the Third Republic.

In addition to the Constitutional Laws and to legal stipulations of an organic character, a further group of provisions exist which have an important bearing on the manner in which the governmental system of France operates. These are the standing rules in the Chambers of Parliament. They determine the organization and procedure of each of the houses of the Legislature.

In each of the French Chambers, the group of rules which regulate internal organization and procedure is called a *règlement*. The characteristic of French temperament which demands completeness and symmetry and unity and uniformity has been able to find in the formulation of the *règlements* of the Chambers a part of the satisfaction which was denied to it in the framing of the Constitution of the Third Republic. Where the latter was thought to be a provisional document and is an exception in the series of complete constitutions that followed the outbreak of the Revolution, the *règlements* of the present day are the most recent examples in a succession of carefully prepared documents which have set out the internal law of the various legislative bodies established by those several constitutions. These *règlements* have contained what appeared valuable in the provisions of their predecessors; and though experience has from time to time rendered certain changes necessary, the French predilection for codification has caused a large degree of completeness and uniformity to be maintained in the later as in the earlier *règlements*.

Rules of procedure are recognized in France as in other countries to possess an importance which in many cases is at least equal to that of constitutional provisions themselves. In fact, the practical omnipotence of the French Parliament renders parliamentary organization and its rules of even higher moment in France than elsewhere. More especially, the *règlements* of the French Chambers establish complete systems of legislative committees. These committees, the working organs of Parliament, have a position which is closely connected and interconnected with the position of Parliament in the French governmental system. They are thus in a peculiar sense a characteristic feature of the French variant of parliamentary government. An examination of them is an invaluable introduction to the study of the governance of France.

CHAPTER I

PARLIAMENTARY PROCEDURE AND ITS RULES IN FRANCE

OF the three great branches into which government, according to the classic analysis of Montesquieu, is to be divided, the legislature, of course, stands in a very real sense before the executive and the judiciary. Legislation is the primary function of government, at least in the sense that in the modern era it is in its operation normally anterior to the executive and judicial functions. This priority of legislation in the modern sense must, of course, be contrasted with the order in which the function came upon the historical scene; but the fact that what we would call to-day administration and adjudication antedated in history what we call legislation serves in reality to emphasize the paramount importance which we attach to the legislative process.

In general, execution and adjudication consist respectively in carrying out the law and in applying it to individual cases. Hence, both of these activities manifestly assume that law exists to be carried out or to be applied. The body of this law is in modern times not, of course, a static thing. It is, as every one knows, constantly being altered to meet new or changing conditions. Consequently, legislation is thought of less frequently as the original establishment of organic principles or regulations and more often as the enactment of provisions for attempting the solution of a new problem or for altering the solution of a problem already attempted. In this context, the modern lawmaker suggests only a remote resemblance to a Lycurgus or a Solon. He is rather the member of a representative assembly faced with difficult social and economic and commercial problems. This emphasis is manifest in the distinction currently made by American students of political science between *constituent* and *legislative* authority. Constitution making they would readily admit to be legislative in character, but they feel no serious inconvenience in identifying statute making and legislation. While constituent power, in the phrase of Lord Bryce, lies dormant, legislative power has much to keep it wide awake.

It is with the making of law in this sense that the legislative branch of government is most frequently and most naturally associated. Mod-

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ern legislatures, as is well known and as there will be occasion later to assume, perform other great functions, which are at least as important as legislation. However, the point need not be labored at length. Modern government is a complex process, and much depends on the proper sort of collaboration on the part of those to whom are entrusted the various functions of the public business. Accordingly, little value is to be derived from an effort to prove that one class of activity is more important than all others or that, perhaps for this reason, it is the foundation on which they rest. This is equally true of the interrelationship between the three branches of government and of that between the basic functions of any one of those branches. The conclusion is that a study of the legislative branch of government may, with proper qualifications, assume that the legislature and legislation are not only of primary and paramount importance in the governing process but even necessary to its existence.

Necessity and Importance of Legislative Procedure

Recognition of the importance and necessity of legislation implies as a simple corollary the importance and necessity of a definite method in the making of law. The most authoritative student of legislative procedure in France, the late M. Eugène Pierre, did not hesitate to affirm that this corollary is self-evident.¹ He felt that no proof of its truth is required. This is not to say that no proofs are available. M. Pierre suggests several of them, but he contends that they are superfluous in view of the fact that a legislative procedure is demanded by the nature of things.² Likewise, a distinguished American student of legislative procedure states simply that "rules are necessary."³ In fact, this proposition is probably the least controversial which can be advanced concerning legislation.

General agreement in respect of the necessity of regulations for legislative procedure leads to a situation which is not without importance. Here, as elsewhere, necessity suggests the modification of what is desirable in terms of what is possible. As a result, the desirable tends to be regarded as of secondary importance. Moreover, authorities on legislative procedure tend to deduce a further conclusion from the

¹ Pierre, *De la procédure parlementaire* (Paris, 1887), p. 9.

² *Ibid.*, pp. 10-18.

³ Luce, *Legislative Procedure* (Boston and New York, 1922), p. 3. Mr. Robert Luce, formerly a member for nine years of the General Court of Massachusetts, was until recently a leading Republican member of the House of Representatives in Congress.

proposition that the character of rules of procedure is, in comparison with their necessity, of secondary importance. They affirm that their character is of minor importance. Thus, Thomas Jefferson, in his *Manual of Parliamentary Practice*, advances a somewhat surprising view. "Whether these forms be in all cases the most rational or not," he says,⁴ "is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is. . . ." Whatever may be said of such logic, the force possessed by a view of this sort is not difficult to appreciate. This force is so strong that the most liberal of legislative bodies are notoriously conservative in respect of their rules of procedure. Since so much importance attaches to having a rule which is clear and certain, there is nothing strange about the fact that to insist on the superiority of a bad rule to no rule obscures the fact of the superiority of a good rule to a bad rule. In such conditions, conservatism flourishes. Any one who for a moment reflects would agree that legislators with none of the discipline derived from fixed procedure "would in confusion worse confounded quickly come to grief."⁵ The political history of France supports this conclusion of common sense in a most interesting way. In the early days of the Revolution, the National Assembly trusted to "inspiration" rather than to discipline as a guide for its proceedings, and only grief resulted. After the first day, when only formal speeches were on the program, pandemonium broke loose. The presiding officer was powerless. A hundred or more speakers were on their feet at once, and spectators added to the confusion by joining in alternate hissing and applauding.⁶ It is perhaps not too much to say that many of the excesses of the Revolution were caused by faulty legislative procedure. At all events, there is no doubt but that such experience establishes the necessity of fixed legislative procedure.

The support afforded by history and reflective analysis to the necessity of legislative procedure is buttressed by modern practice. All civilized modern nations are possessed of fixed methods according to which the law of the land is made. This method is everywhere determined in part by formal written rules and in part by precedent. Great Britain, owing to its long and almost unbroken political development and to the consequent continuous experience with problems of procedure, is in this respect the natural model. As is well known, its national legislature, Parliament, has evolved a procedure to which is appended the

⁴ Sect. 1 with reference to 2 Hatsel 149.

⁵ Luce, *op. cit.*, p. 1.

⁶ For this episode, cf. *ibid.*, and also Gaston Deschamps, "Eugène Pierre," *Revue politique et parlementaire*, 1925, t. CXXIV, no. 369 (10 août), pp. 227 et seq.

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epithet *parliamentary*. As a phenomenon, parliamentary procedure is familiar to the members of every school debating society; but its varied ramifications are mastered by very few. The mythology of parliamentary procedure includes a story that Mr. Parnell, when asked by a new member how to learn the rules of the House of Commons, replied, "By breaking them."

At present, those rules of procedure which in the English House of Commons have been reduced to formal written provisions are called Standing Orders. From the nature of the case, they have been formulated in somewhat haphazard fashion; and a student of English procedure must realize that they are supplemented on all sides by precedent.⁷ These rules and precedents together form the basis of procedure in America, where time has of course been responsible for many modifications. In the United States, both in Congress and in the State legislatures, that part of procedure which has been put into written form is usually referred to simply as Rules. On the continent of Europe, France is, of course, most representative.

In France, the most important of the rules of legislative procedure—and, in a sense, the greater part of these rules—are in written form.⁸ Precedent cannot be said to be without authority in matters of procedure, but the conscious effort is made to confine this authority within the narrowest possible limits. This may doubtless be attributed to a certain predilection for codification frequently associated with the French. At all events, the rules of procedure of any French assembly are regarded as forming a complete whole. Such a set of rules, which as a miniature code is known as a *règlement*, naturally exists in each of the Chambers of the French Parliament.

The first care of every legislative assembly, according to M. Pierre, should be to give itself a set of working rules.⁹ This obligation the assembly performs in the exercise of a well-established right.¹⁰ The question of the possession of this right need not be labored, for it is beyond controversy. The right may be deduced from the very nature of the legislative function. It would be as undesirable as it is impossible for this function to be performed otherwise than according to an agreed plan.

In England, it is not questioned, and there seems to be no way in

⁷ Cf. Ilbert, *Parliament* (rev. ed., London, 1920), p. 128.

⁸ Cf. Pierre, *op. cit.*, p. 18.

⁹ *Ibid.*, p. 19.

¹⁰ Consult the several excellent treatises on French constitutional law such as those of Esmein, Duguit, Hauriou, and Joseph-Barthélemy.

which it could be questioned, that the House of Commons adopts its Standing Orders as a right.¹¹ No importance attaches in this respect to the mere absence of a "written constitution," that is to say, of law superior to that made by Parliament, in which the power to frame rules of procedure might be expressly or implicitly recognized. The important practical consideration is that rules of procedure have existed in England for centuries. This fact has played an important part in influencing students in other countries to accept the presumption that the right to make rules of procedure exists even in the absence of formal constitutional recognition.

Each House of the Congress of the United States is well known to be empowered by the Constitution¹² to formulate its own rules of procedure. Similarly, express recognition of the possession of such power by the houses of State legislatures is contained in practically all State constitutions;¹³ and the words of the several constitutions are supported by judicial decisions and text-writers. Consequently, the recognition by authorities that the power would be equally certain in the absence of constitutional stipulations serves little purpose other than to stress the strong foundation of a right and to illustrate the influence of English experience.

The right of each of the Chambers of the French Parliament to formulate its own set of working rules is no less clear and equally unquestioned.¹⁴ The source of the right is, as in the United States, the Constitution; but authoritative text-writers are agreed in affirming that the right would exist even if the Constitution were silent on the subject. One minor difference in the matter is worthy of note. In France, the Constitution does not expressly affirm that each Chamber may formulate its règlement. It merely refers in passing, as it were, to the règlement, thus by implication recognizing its existence and the right to formulate it. The French Constitutional Law of July 16, 1875, in regulating the matter of publicity of parliamentary sessions, stipulates that in each Chamber a secret sitting may be held at the request of a certain number of members, this number to be "determined by the règlement."¹⁵

¹¹ Cf. Dicey, *Introduction to the Study of the Law of the Constitution* (8th ed., London, 1915), p. 53; Redlich, *The Procedure of the House of Commons* (3 vols., London, 1908), Vol. II, p. 7.

¹² Article I, Section 5, Clause 2.

¹³ Cf. H. W. Dodds, *Procedure in State Legislatures* (Philadelphia, 1918), p. 12.

¹⁴ Consult various texts on French constitutional law.

¹⁵ Art. 5.

Nature of Legislative Rules of Procedure

The unanimity with which all French students recognize the right of each of the Chambers to formulate its own *règlement* disappears in connection with the question of the exact nature of a *règlement*.¹⁶ As a matter of fact, French writers on their own government, when they reach this point, bring to the examination of the matter a care and an effort at exactness which must appear to many persons little, if at all, short of pedantry. This is particularly manifest in the elaborate pains with which is argued the question of what a *règlement* is not. General agreement appears to exist that the *règlement* is not a contract, is not a law, and is not an administrative ordinance; and almost equally general agreement exists concerning the relatively simple reasoning by which these negative conclusions are reached.

A contract may in general be regarded as a convention binding on all those, though only on those, who have subscribed to a certain number of obligations. The *règlement* is, as a matter of fact, equally binding on those who at the time of its adoption vote either for or against some or all of its provisions. This in itself is enough to clinch the matter. However, in France, since the rules of procedure are not formally adopted by each new legislature but continue in existence as long as they are not changed, it is manifest that in legislatures subsequent to that one in which the rules were originally adopted, rules are binding on members who had not the opportunity of voting at all.

There appears to exist in France a definite tendency to identify a law with an Act of Parliament. With this initial premise, the argument that a *règlement* is not a law is exceedingly simple. Parliament is the only body possessing the power to make laws; each Chamber of Parliament in fact does make, and in theory is recognized to have the power to make, a set of rules; Parliament is bicameral and cannot be regarded as constituted by a single Chamber; hence, rules of procedure are not law.

Finally, general agreement appears to exist in France that the *règlement* of a legislative Chamber is not of the nature of an administrative decree. Such an ordinance may for practical purposes be defined as "an obligatory rule imposed by an authority other than Parliament."¹⁷ At first sight, this definition would appear to fit the *règlements* of the Chambers; but the essence of the matter is to be found in the term

¹⁶ Reference is again to the authors of recognized texts. Cf. also André J.-L. Breton, *Les Commissions et la réforme de la procédure parlementaire* (Paris, 1922), Int., pp. xxii et seq.

¹⁷ Moreau, *Le Règlement administratif*, quoted by Breton, *loc cit.*

obligatory. French writers do not hesitate to affirm that no rule is obligatory in the juristic sense of the word if no court will enforce the rule.¹⁸ As a matter of fact, the highest French administrative court, the Conseil d'État, has held that no provision of legislative rules of procedure will be enforced by a French court.¹⁹ The conclusion would, therefore, appear to be required that rules of procedure cannot be properly considered as on the same plane with administrative ordinances.

French writers on government are, it may be repeated, well agreed on what a *règlement* is not. They are by no means so definite concerning what it is. The most eminent student of French procedure suggests that the *règlements* are "the offspring of the Constitutional Laws of 1875."²⁰ This, it may be admitted, is an expressive conception and is not without importance as stressing the relationship of rules of procedure to fundamental law. At the same time, it is scarcely a logical definition. This same student, in an authoritative work on parliamentary law, devotes two detailed chapters to the *règlements* in their historical development and their actual working; but to their theoretical nature he gives only a few lines.²¹ Another authority concludes that nothing more definite may be said than that a *règlement* is "an act of a special nature."²² All French students tend to refer to a *règlement* as the "internal" or the "interior" law of a deliberative assembly, though some are careful to add such qualifying phrases as "in appearance" or "in a sense." Some addition to these sparse ideas would seem to be made by a student who suggests that the true nature of a *règlement* may be better appreciated through the employment of analogy than by means of the effort accurately to define such internal law. He believes that the matter may be easily understood "if there is seen in each of the political Assemblies a true autonomous corporation, having received as its own from the State very wide powers. This corporation has legislative power. It makes a law which is applied to its members. This is the *règlement*. Of this set of rules, a part consists of a true penal law. It is the whole part relative to discipline. This corporation has judicial power. It sees for itself to the juristic application of this penal law."²³

¹⁸ Cf. Esmein, *Éléments de droit constitutionnel français et comparé* (8^e éd., 2 vol., Paris, 1928), p. 406.

¹⁹ The most recent decision is apparently Cons. d'État, 26 mars 1926, *Boulonnois*. Cf. Hauriou, *Précis de droit constitutionnel* (2^e éd., Paris, 1929), p. 499; Joseph-Barthélemy et Paul Duez, *Traité de droit constitutionnel* (2^e éd., Paris, 1933), p. 523.

²⁰ Cf. *Règlement de la Chambre*, art. 139, note.

²¹ Cf. Pierre, *Traité de droit politique, électoral et parlementaire* (5^e éd., 2 vol., 1929), nos. 445-450, 451-454.

²² Breton, *loc. cit.*

²³ Duguit, *L'Organisation politique de la France* (Paris, 1924), p. 276.

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The academic character of juristic controversy is well known. This in itself, of course, is in no wise derogatory of the study of jurisprudence. At the same time, the question of the legal nature of legislative rules of procedure will naturally remain of greater interest and importance to the student of jurisprudence than to the student of parliamentary procedure. For the purposes of the latter, a few general considerations suffice.²⁴

There appears to be no particular objection to maintaining a strict legal conception of the nature of a contract nor to agreeing that, according to this conception, a *règlement* is not a contract. The mere consideration of the question would probably be unthinkable but for the enormous confusion concerning the nature of the state and of law which persists in some quarters as a result of the influence of various aspects of the famous "contract theory."

The view that rules of procedure differ in principle from rules which are admitted on all hands to be law is very doubtfully tenable. More especially, the general French contention that a *règlement* is neither law nor administrative ordinance seems unnecessarily rigid and narrow. The argument that a *règlement* is not law because it does not represent the joint action of both Chambers of Parliament in reality means merely, as has been said, that a *règlement* is not a statute—a statement which no one would deny. So also, to argue that a *règlement* is not an administrative ordinance because its provisions will not be applied by the courts is to identify legal sanction wholly with judicial enforcement.

The definition of law as any rule that the courts will enforce is a commonplace with Anglo-American students. Its simplicity doubtless renders it of some utility; but a little reflection suggests that it fails to push things very far. It throws no light on the question of what there is about a rule which determines the courts to enforce it; so that it offers no help in determining beforehand what the courts will regard as law. In reality, the simplest test which is applied would seem to be that of the *ultimate formal source* of any rule. In this respect, a French *règlement* does not suffer in comparison with rules recognized to be of legal character. Many of the latter must trace their descent from their ultimate formal source through several steps; whereas a rule of procedure in France has its source directly in the Constitution itself. Again, it would be a manifest fallacy to contend that because every rule enforced by the courts has the same ultimate formal source, every

²⁴ The writer has dealt with the question at somewhat greater length in an article, "The Legal Nature of Legislative Rules of Procedure," *Virginia Law Review*, Vol. XII, No. 7, May, 1926, pp. 527 *et seq.*

rule having the same ultimate formal source will necessarily be enforced by the courts. On the other hand, there appears no fundamental reason for refusing legal character to all rules of the same ultimate source, even if some are not enforced by the courts. Action by the courts may not occur for at least two simple reasons: some rules may be of such character that their violation is inconceivable; and some may be enforced otherwise than by the courts. Thus, in the second respect, the fact that in France no tribunal of the regular judicial or administrative organization will enforce the provisions of a *règlement* does not mean that the latter are not enforced. Each of the French Chambers may in many very important cases enforce its own *règlement*. This basic consideration is in no way affected by the fact that any legislative assembly *voluntarily* binds itself by the adoption of its rules and, *as an assembly*, is technically within its rights in ignoring its rules. Just as in the case of the state, of which a Chamber may in this respect for practical purposes be considered a miniature analogue, a distinction must be made between the unitary and discrete aspects of a corporate body, that is to say, between the body and the individuals of which it is composed. In this context, the provisions of a *règlement*, though not binding in the same sense on the Chamber as a whole, are undoubtedly binding on its individual members. Such provisions, then, though their violation is not normally to be anticipated, are obligatory, enforceable, and enforced. They are in a real, if special, sense law.

The legal nature of rules of legislative procedure, it may be repeated, is largely a matter of academic interest. Their special character is of more practical importance; for, as an incisive student of the subject has observed, they are in a given country "the outcome of a particular political problem of the greatest importance."²⁵ The initial step in their justification is, as has been observed, recognition of their necessity; but the real case for them is based on higher considerations. Ultimate judgment of them must depend on the degree of intimacy with which they are related to fundamental political facts and to the vital principles of a political system. "The very existence of a parliament," says the historian of the procedure of the English House of Commons, "rests on its rules of business as a foundation, and . . . in the last resort, its whole energy may come to depend upon the correct solution of the problem of procedure."²⁶

The attention which is given by French students to the legal nature of a *règlement* does not mean that considerations of a less technical

²⁵ Redlich, *op. cit.*, Vol. I, Int., p. xxxvi.

²⁶ *Ibid.*, p. xxxiii.

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character are neglected. More especially in Parliament itself, as is altogether natural, these considerations have received due attention. Thus, the necessity of rules of legislative procedure was well recognized from the beginning of the present parliamentary system. The fact that the members of the first Chambers were much influenced by the memory of excesses of the Revolution caused nothing to be more natural than that the primary aim of the establishment of rules of procedure should be fully appreciated at the time. "The règlement has as its object," wrote in 1876 the reporter of the original règlement of the Chamber of Deputies, "that of elevating through the order and calm of deliberation, the dignity of the Chamber and the majesty of the law. . . . Before the provisions of the règlement, which are equal for all and protect the right of every one, passions must be quieted, ardor must be moderated, and individual pretensions must give way, in order that, even in the most serious circumstances, assemblies may pursue without tumult and without obstacle the peaceable course of their labors."²⁷ Moreover, more thoughtful members of Parliament have understood that recognition of the necessity for legislative rules is not the final consideration. "Gentlemen," said an experienced Deputy in 1910, "in the parliamentary organism everything is connected. . . . When the règlement is touched our whole method of work is touched."²⁸ And another Deputy in 1920 spoke in the following words of a proposed reform of the règlement: "In appearance, it has the air only of interesting the Chamber in its internal regulation. Fundamentally, the extent of the task is immense. It interests the country as a whole. . . ."²⁹

Recognition in France of the necessity and far-reaching importance of a règlement has resulted in an attitude of genuine respect for legislative rules of procedure. All respectable French students of constitutional law could be cited in support of the view that these rules often possess "more influence than the Constitution itself." This not only explains the fact that in France as in other countries legislative assemblies so seldom violate their rules of procedure; it likewise explains why in France as in other countries legislatures are so slow to alter their rules. Perhaps in no sphere do individuals cling more tenaciously to old forms; and the most liberal bodies pay tribute by their conservatism in this respect to the value of experience.

At the same time, France should not be regarded as merely an example like another of a country in which fundamental considerations

²⁷ Report of M. Millaud in J. O., 1876, mai-juin (annexe no. 152), p. 3920.

²⁸ The churchman, M. Lemire, in debate in the Chamber. J. O., 1910, Débs. Ch., 1^{er} juillet, p. 2374.

²⁹ M. Hector Molinié. J. O., 1920, Débs. Ch., 27 mai, p. 1652.

concerning legislative procedure are applicable. Rules of procedure are in France interconnected in a peculiarly intimate way with living political facts and principles in the nation. More especially, the peculiar connotation of the notion of "parliamentary omnipotence" in France cannot be fully understood except in relation with parliamentary procedure. In the first place, the gradual but pronounced shifting of the center of gravity in the governmental system in the direction of Parliament, with the consequent ministerial subjection and instability, has of necessity been attended by a consolidation on the part of Parliament of its position as the central governmental organ of the French state; and the *règlement*, of course, has been the instrument for the accomplishment of the necessary development of formal organization and procedure. Moreover, the peculiar position of Parliament in France gives a particular character to the fundamental relationship of the state and the individual. Hence, the connection appears clearly between parliamentary procedure and the final problem of political science, the reconciliation of liberty and authority.

The hard facts of life in society are commonly felt to be demonstrating the fictional and untenable character of "natural liberty." So-called "individual liberties" are in this context far from being absolute. They are, as every realist must admit, being constantly restricted in terms of the requirements of public order and welfare. These requirements cannot be determined by any fixed criteria, and for this reason the liberty of the individual is in a definite sense subject to the discretion of the agents of government. No one would suggest that this situation is ideal. However, it appears to be an inevitable disadvantage of life in society. In all countries in general and in France in particular, various expedients are attempted, especially through the use of the judiciary, in order to protect the individual against the abuses of action alleged to be in the public interest. However, in the peculiar conditions existing in France, the primary protection of the individual, it may still be argued with conviction, is to be found in the Legislature. It is not that legislation is the expression of a fictitious general or national will. The protection derives from the fact that laws are made by average men and more especially from the fact that they are made according to fixed procedure. "This procedure involves automatically a great protection of individual liberties; for its essential elements are full and free debate and wide publicity."⁸⁰

⁸⁰ This argument is suggested by and drawn from the exceedingly able and striking report of M. Gaston Jèze on "Les Libertés individuelles" in the *Annuaire de l'Institut international de droit public*, 1929, pp. 162 et seq.

French Parliamentary Procedure in the Third Republic

During the existence of the French Parliament established by the present Constitutional Laws, the Chamber of Deputies has been possessed of two règlements. The Senate in the same period has had but one. Each of the Chambers formulated and adopted a règlement in 1876. That adopted by the Senate, though much modified by subsequent resolutions, still serves at the present day as the internal law of that body. The règlement adopted by the Chamber of Deputies in 1876, which had likewise undergone many modifications, was in 1915 replaced by a second règlement. The latter, itself not without subsequent changes, to-day regulates the internal order of the Chamber.⁸¹

The first meeting of the Chamber of Deputies and of the Senate took place on March 8, 1876.⁸² This day had been selected on December 30, 1875, by the National Assembly, which at the same time had prolonged its own life until that date. Thus, between the government of the French nation under the National Assembly and its government under the Constitutional Laws which the Assembly had passed, there was practically no break. Accordingly, from the beginning, the new Parliament worked smoothly and naturally; and, in the case of the Senate, the transition from the National Assembly was facilitated by an unofficial preparatory meeting held on the day before the official convening of the new Chambers.⁸³

The first step, both of the Chamber of Deputies and of the Senate, was to adopt, without opposition, the suggestion of their respective Presidents that the règlement of the National Assembly be provisionally accepted.⁸⁴ In this way, the Chambers took for granted from the beginning the importance of their internal regulation.

The règlement of the National Assembly, provisionally adopted by the Chambers in 1876, was in turn, it may be noted, a slightly modified form of the règlement of the Legislative Assembly of 1849. Moreover, the definitive règlement subsequently adopted by the Senate was in the same line of descent. However, the Senate based its règlement directly on the règlement of 1849 rather than on the modified form employed by the National Assembly and provisionally by itself and the Chamber.

⁸¹ For various texts see Bonnard, *Les Règlements des assemblées législatives de la France depuis 1789* (Paris, 1926). Cf. also Pierre, *op. cit.*, no. 448.

⁸² J. O., 1876, mars-avril, p. 1609.

⁸³ *Ibid.*, p. 1627.

⁸⁴ *Ibid.*, pp. 1627-1628.

The Chamber preferred to base its definitive règlement on that of the Corps Législatif of 1870.³⁵

On March 13, 1876, the Senate resolved to set up a select committee charged with the task of formulating its definitive règlement; and two days later the members of the committee were chosen.³⁶ On the following day, March 16, the Chamber of Deputies likewise named a select committee on the règlement.³⁷ The first meeting of the committee on the règlement in the Senate took place on March 21.³⁸ The corresponding committee in the Chamber of Deputies met two days later, March 23.³⁹ To these committees were referred any changes meantime suggested in the provisional règlement.⁴⁰

In the Senate, work on the new règlement progressed sufficiently for the committee to be able on March 22 to name as reporter a veteran parliamentarian.⁴¹ On May 10, the reporter brought before the Senate his report on thirteen out of fifteen chapters of the règlement proposed by the committee.⁴² Discussion of this document, which was ordered printed and distributed, was set for May 15.⁴³ In point of fact, the discussion began on May 16.⁴⁴ General debate consumed so little time that detailed examination of the articles began on the same day. This detailed discussion took place likewise on five additional days in May. Meanwhile, the last two chapters of the règlement were reported on May 24.⁴⁵ A decision having been made that these chapters, as well as the first thirteen, should receive together the first and second readings, the real debate on the complete règlement took place at the time of the third reading. This began on June 7.⁴⁶ The debate consumed part of four successive days; and finally, on June 10, the whole règlement was put to a vote and formally adopted.⁴⁷ The President of the Senate ordered that the new règlement should be printed and distributed, after which, he proclaimed, it should at once be put into execution. It was

³⁵ Cf. J. O., 1876, mai-juin, pp. 3496, 3920. For texts see Bonnard, *op. cit.*

³⁶ J. O., 1876, mars-avril, p. 1810.

³⁷ *Ibid.*, p. 1841.

³⁸ *Ibid.*, p. 1961.

³⁹ *Ibid.*, p. 2024.

⁴⁰ *Ibid.*, p. 2050.

⁴¹ M. Corne. See *ibid.*, p. 2256.

⁴² J. O., 1876, mai-juin, p. 3195. For the report, see *ibid.* (annexe no. 29), p. 3496.

⁴³ *Ibid.*, p. 3196.

⁴⁴ *Ibid.*, p. 3328.

⁴⁵ *Ibid.*, p. 3581.

⁴⁶ *Ibid.*, pp. 3940 *et seq.*

⁴⁷ *Ibid.*, p. 4073.

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accordingly printed in two parts in the *Journal officiel* of June 15 and June 16, 1876.⁴⁸

In the Chamber of Deputies, it was not until May 12 that a reporter was named by the committee on the *règlement*.⁴⁹ His report⁵⁰ was brought in and ordered printed and distributed on May 29.⁵¹ The discussion was set for June 1.⁵² The discussion, however, was successively postponed from June 1 to each of the five following sittings.⁵³ It finally began in the Chamber on June 8.⁵⁴ On that day, the Deputies voted to pass to the second reading and thereupon declared urgency. The debate, accordingly, began on the following day.⁵⁵ The work of the committee on the *règlement*, which had been accomplished with great thoroughness, met with much favor at the hands of the Chamber of Deputies. As a result, only a few amendments were proposed. The public discussion was correspondingly brief. A short time on four different days was devoted to debate of several details. On the last of these days, June 16, the Chamber formally adopted the whole of the proposed *règlement*.⁵⁶

The authors of the two French *règlements* of 1876 would almost certainly have made no claims of perfection for their work. They must have understood that the internal law of the Chambers would in the course of time undergo alteration as experience should show modification to be necessary and desirable. Naturally, such alteration has in fact taken place; and yet the well-known conservative tendency of legislatures in this respect has caused changes to be introduced only very gradually. As a result, the perspective of a relatively long period of time is required in order for any considerable modification to be observed in the working rules originally adopted by the Chambers.⁵⁷

Since 1876, the *règlement* of the Senate has been amended on some thirty occasions.⁵⁸ Some of the resolutions by which amendment has been effected have been concerned with a single article, others with

⁴⁸ J. O., 1876, mai-juin, p. 3195. For the report, see *ibid.* (annexe no. 48), p. 4188.

⁴⁹ M. Millaud. See *ibid.*, p. 3223.

⁵⁰ *Ibid.* (annexe no. 152), pp. 3920, 4001, 4099.

⁵¹ *Ibid.*, p. 3695.

⁵² *Ibid.*, p. 3698.

⁵³ *Ibid.*, pp. 3698, 3776, 3816, 3848, 3914, 3964.

⁵⁴ *Ibid.*, p. 3999.

⁵⁵ *Ibid.*, pp. 4039 *et seq.*

⁵⁶ *Ibid.*, p. 4246. Text in Bonnard, *op. cit.*, pp. 467 *et seq.*

⁵⁷ This may be seen in an interesting way if the present *règlement* of each of the Chambers be compared with the *règlement* employed by the Chambers when they meet together. See *Règlement de l'Assemblée nationale* (Paris, 1926). This copy of an antiquated *règlement* was published on the occasion of the last amendment of the Constitution.

⁵⁸ See *Règlement du Sénat* (Imprimerie du Sénat). A new edition appears at irregular intervals. Cf. also Bonnard, *op. cit.*, pp. 66 *et seq.*, 454 *et seq.*

several together. In turn, some amendments have brought about only minor verbal alterations; others have manifested fundamental change in procedural policy. In the result, the Senate *règlement* of to-day is in many points similar to, in many points different from, that *règlement* as it was in 1876. Whether the present *règlement* should be said, except technically speaking, to be the same as the *règlement* of 1876 is an open, and doubtless vain, question.

Between 1876 and 1915, the original *règlement* of the Chamber of Deputies was amended by approximately thirty resolutions, dealing, as in the case of the Senate, with one or more articles and effecting changes which were in some cases relatively superficial and in others more far-reaching.⁶⁰ In the early part of 1915, the Chamber examined, discussed, and adopted a *règlement* which, being technically new, supplanted the *règlement* of 1876 as amended.⁶⁰ The new *règlement*, which naturally incorporated into its provisions much of the old, has between 1915 and 1932 been amended by the provisions of about twenty resolutions. At the beginning of the Fifteenth Legislature in 1932, the *règlement* of 1915, though not technically supplanted by another, was overhauled in a large number of its provisions.⁶¹ In reality, the numerous changes all involved matters which were not controversial. The consciously adopted plan of postponing the consideration of proposed changes which involved any disagreement brought the *règlement* of the Chamber carefully up to date.

⁶⁰ See *Règlement de la Chambre des députés* (Imprimerie de la Chambre des députés). A new edition appears at irregular intervals. Cf. also Bonnard, *op. cit.*, pp. 74 *et seq.*, 488 *et seq.*

⁶⁰ J. O., 1915, Débs. Ch., 29 janvier, pp. 72 *et seq.*; 4 février, pp. 92 *et seq.*

⁶¹ J. O., 1932, Débs. Ch., 24 mars, pp. 1702 *et seq.*; 10 juin, pp. 2290 *et seq.*

CHAPTER II

THE SYSTEM OF SPECIAL COMMITTEES

Establishment of the System

THE *règlements* adopted by the French Chambers in 1876 established the broad outlines and regulated with considerable thoroughness the details of the legislative procedure of the Parliament of the Third Republic. Like the rules of legislative assemblies in most times and places, these *règlements* recognized that any large aggregate of individuals must, in order to perform any effective work, give careful attention to the question of organization. They recognized that such organization, always with a view to practical accomplishment by large numbers of individuals, must involve the existence of smaller bodies within the larger, in other words, the existence of committees. In reality, the *règlements* of 1876 set up in the First Legislature of the Third Republic a definite committee system for each of the Chambers. The system was that of *special* or *select* committees. As a matter of fact, the *règlements* of 1876 ratified rather than formulated such a system; for the system of special committees was already well known and had become well established in France.¹ Not only had some of the régimes existing previous to the Third Republic employed the system; the National Assembly of 1871 itself made use of committees of this sort.

The Chamber of Deputies and the Senate of the First Legislature of the Third Republic, in employing provisionally the procedure of the National Assembly, made frequent use, as was natural, of special committees. They thus employed these committees even before systems of such committees were incorporated into the definitive *règlements* of the two Chambers.

In accordance with a provision of the *règlement* of the National Assembly, each of the Chambers decided at once on the maintenance of a monthly division of itself by lot into *bureaux*. This practice, which

¹ For committees before the establishment of the Third Republic, consult Pierre, *Traité de droit politique, électoral et parlementaire* (2 vol., 5^e éd., 1929), no. 737; André J.-L. Breton, *Les Commissions et la réforme de la procédure parlementaire* (Paris, 1922), pp. 3 *et seq.*

has prevailed in several countries of Continental Europe, is said to go back to medieval times. In the present instance, the Chamber of Deputies decided on eleven of these bureaux and the Senate on nine.² These numbers have been retained until the present day.

The bureaux, when they had been drawn, proceeded immediately to the question of the verification of powers of the members of the new Parliament.³ The practice in this respect is alphabetically to distribute the credentials of the various members-elect to the several bureaux, each of these delegating the examination of the various credentials to small committees likewise chosen by lot.⁴

The Senate, within a week after its first meeting, was in a position to choose certain committees.⁵ In addition to the special committee on a definitive règlement, it set up a committee on accounts and a special committee charged with the task of arranging a scheme for the partial renewal of the Senate. It likewise appointed four monthly committees: on petitions, on leaves of absence, on local affairs, and on initiative. At the same period, the Chamber of Deputies set up its committee on the règlement and appointed the same four monthly committees as the Senate.⁶

During the time that the Chambers continued under their provisional règlements, they followed established practice. Special committees were named, and reports were brought before the Chambers. A measure,⁷ when introduced, was normally accompanied by a resolution proposing the appointment of a special committee for the study of the question with which the measure dealt. Proposals which emanated from private members were sent for preliminary consideration to a monthly committee known as the committee of initiative. Upon the favorable report of this committee, which was practically always granted as a matter of course, the measure was submitted to the bureaux. When the proposed measure had been discussed in the bureaux, each bureau selected one of its number to serve as a member of the special committee which was to study the proposal and to report on it to a public session of the Chamber or the Senate. Proposals which were introduced by the Ministry and private members' measures which received the benefit of a declaration of urgency were spared preliminary consideration at the hands of the committee of initiative.⁷

² J. O., 1876, mars-avril, pp. 1628, 1629.

³ *Ibid.*, p. 1629.

⁴ *Règlement de la Chambre*, arts. 1-4; *Règlement du Sénat*, arts. 8-10.

⁵ J. O., 1876, mars-avril, p. 1810.

⁶ *Ibid.*, p. 1841.

⁷ For examples of the practices here mentioned, cf. *ibid.*, pp. 1923, 1931, 2019, 2395.

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Especial interest attaches to the fact that on April 3 a budget committee of thirty-three members was named in the bureaux of the Chamber of Deputies.⁸ This committee met on the following day. It chose Gambetta as its first president. The committee continued the established French practice of dividing itself into sub-committees. Each of these sub-committees was expected to concern itself with a definite part of the annual budget. This practice, after continuing in existence for some time, was later abandoned.⁹

When the committees on the *règlement* were finally ready with their reports,¹⁰ each of the proposed *rèlements* naturally contained a definite portion devoted to bureaux and committees. This was, in the case both of the Senate and of the Chamber of Deputies, Chapter III. In so far, therefore, as the committee reports and the debates on them involved discussion of the proposed system of committees, this discussion was addressed to the several articles of Chapter III.

In the Senate, one part of the report of the committee on the *règlement* was devoted to a detailed consideration of the proposed articles of the *règlement*. When in this part the report reached Chapter III (Articles 11-28), it confined its attention to a few points considered worthy of comment. The first of the matters dealt with was the problem of a sanction for non-attendance at bureau and committee meetings. The report likewise devoted some discussion to the number of committees to which one Senator might properly belong. The desirability of an alternative method of selecting members of committees was also raised in the report. Finally, the difficulty of properly preserving documents used by a particular committee came in for attention.¹¹ All of these matters, it may be noted, have continued to be discussed down to the present day.

In the first discussion of that part of the proposed *règlement* which dealt with committees,¹² speakers in the Senate raised only a few points. Some excitement was aroused during the discussion in connection with the question whether committees might meet elsewhere than at Versailles; but a proposed amendment to the effect that meetings should take place only at Versailles was not adopted. On the other hand, at the time of this first discussion, two amendments of a minor character were adopted. The first amendment, which was readily agreed to by

⁸ Cf. J. O., 1876, mars-avril, pp. 2360, 2444.

⁹ See Ch. VI, *infra*.

¹⁰ Meantime, on April 8, the provisional *rèlements* being still in effect, it was necessary to renew the bureaux and the monthly committees. Cf. J. O., 1876, mars-avril, pp. 2540, 2556.

¹¹ Cf. J. O., 1876, mai-juin, p. 3496.

¹² Cf. *ibid.*, pp. 3228, 3363, 3365.

the committee, modified a provision of the proposed *règlement* which stipulated that adoption of an alternative method of naming committee members should be made *without debate*. The second amendment, opposed by the committee, incorporated the argument that, in the case of a proposal introduced by several members, all of them should be heard by the committee which was entrusted with the study of the measure in question.

In the final debate on the *règlement* in the Senate,¹³ the greater part of the discussion centered round an amendment¹⁴ which proposed the establishment of an annual committee on finance. The proposal was attacked on theoretical grounds and defended on practical grounds, with the result that considerable confusion and complexity were present in the discussion. Accordingly, the debate was seriously lacking in unity. The members constantly shifted their ground from one point of view to the other and seldom succeeded in meeting on a common plane. In the end, practical considerations prevailed. The amendment was adopted by a close vote. The advantage was recognized of the existence in the Senate of a committee of able members to whom financial matters might be submitted. In this way, a Senate committee could study, simultaneously with the budget committee in the Chamber of Deputies, the annual finance measure. This measure has habitually arrived before the Senate from the Chamber too late for serious consideration.

The debate on the establishment of a finance committee in the Senate is of interest primarily because it foreshadowed a series of important debates in the French Parliament.¹⁵ In these debates, extending over the period of a quarter of a century, the system of special committees was persistently attacked, and the substitution of a system of grand standing committees was strongly urged. In turn, this action was met with vigorous defense and violent counter-attack.

Aside from the central question of a finance committee, amendments were at this time offered and comment was made principally on those matters with which the committee report had already dealt.¹⁶ Thus, the question of the number of committees on which one Senator might serve was debated for the second time; a proposal that committees be allowed exceptionally to meet in the Ministries was considered and ultimately adopted; and certain matters of form were discussed.

In the Chamber of Deputies, the report of the committee on the

¹³ Cf. *ibid.*, pp. 4022 *et seq.*

¹⁴ See *ibid.*, p. 3240.

¹⁵ See Ch. III, *infra*.

¹⁶ See J. O., 1876, mai-juin, p. 3981.

règlement, in that part dealing with the Committee System, considered that only a few matters were worthy of detailed comment. It assumed the maintenance of the bureaux and their public selection by lot. It suggested that the quorum in the bureaux ought to be one-third their membership; and it provided that a sanction for non-attendance should be established in the form of publication of absentees in the minutes. It defended limitation of the number of committees to which one Deputy might belong. And it commented on a new proposal suggesting that a stipulation of the règlement set apart one day a week wholly for the work of the committees.

In that part of the debate on the règlement which related to Chapter III (Articles 12-29),¹⁷ no disagreement was expressed with the principles of the proposed règlement; and very little desire was manifested to debate its details. One member raised the question of minority representation on the committees, but he received little attention. Another Deputy proposed that three days a week instead of one ought to be set aside for the work of committees. He defended the suggestion with the plausible argument that more work is done in committee than in the public sittings and that hence more time should be allotted to it. The Chamber, however, decided to proceed in the matter with caution. A special day given wholly to committee meetings was a new proposal; and the Chamber seemed to prefer that the first experiment should not be too far-reaching. Wednesday was later chosen as the day to be devoted to this kind of work. The remainder of the discussion in the Chamber was concerned with relatively minor matters. Some attention was given to the establishment of an alternative and exceptional method for the selection of committees. At another time, the debate dealt with the question of access on the part of private members to the minutes and other documents in the possession of the bureaux and committees. Finally, several speakers debated the proposals which suggested sanctions for rules calculated to secure better attendance in the bureaux and committees.

Characteristics of the System

The French règlements of 1876 established systems of committees which were essentially the same in the Senate and the Chamber of Deputies. In fundamental principle and in general outline, the systems displayed no real differences. Variations occurred only in matters of detail.

¹⁷ Cf. J. O., 1876, mai-juin, pp. 4039-4041.

The systems of committees were characterized by a simple consideration.¹⁸ From the beginning, each Chamber created a special committee for the study of each measure which received consideration at its hands. At all events, this was the theory. In practice, however, the theory was modified by custom. The custom, recognized as legitimate by the *règlements* of both Chambers,¹⁹ was that of referring to a committee already formed any bill or resolution which the Chamber in question might decide to be susceptible of advantageous treatment at the hands of this existing committee. There arose accordingly the inevitable tendency for all measures of a kindred nature to be submitted to a single committee. This tendency was in reality especially strong in the case of measures which involved public expenditure or which pertained to the public revenue. The practice whereby all such measures were submitted to a large committee subdivided into sub-committees was, as has been mentioned, already known in France before 1876. Thus, the *règlement* of each Chamber, in establishing such a committee, merely regularized what was already practised.²⁰ According to the stipulations of the two *règlements*,²¹ the budget committee in the Chamber of Deputies consisted of thirty-three members and the committee on finance in the Senate of twenty-seven. These committees were, from the nature of the case, annual committees; for their chief concern was the annual budget. However, the activities of the committees were not confined to the lengthy consideration of the budget and other purely financial measures. The committees were obliged, as stipulated by the *règlements*,²² to give within ten days their opinion on any measure, being studied by a special committee, which involved public expenditure or affected a public receipt.

The Chambers appeared to see nothing abnormal in the existence of two large standing committees among a host of small special committees; and though the *règlements* ²³ recognized the right of the Chamber and the Senate to submit the budget and other financial matters to special committees, the view became better and better established that the large finance committees were the proper instrumentalities for preliminary consideration of measures of this kind. Moreover, the duty imposed on the finance committees of offering their opinion on measures of which the financial aspect was only incidental produced as a prac-

¹⁸ For the several details, the original *règlement* of the Chamber must be consulted; whereas the present *Règlement du Sénat* continues the primary source.

¹⁹ Chamber, Art. 18; Senate, Art. 18. Cf. Pierre, *op. cit.*, no. 755.

²⁰ Cf. Pierre, *op. cit.*, no. 737.

²¹ Chamber, Arts. 21, 22; Senate, Arts. 20, 21. Cf. Pierre, *op. cit.*, no. 767.

²² Chamber, Art. 24; Senate, Art. 23. Cf. Pierre, *op. cit.*, nos. 772, 775.

²³ Chamber, Art. 23; Senate, Art. 22. Cf. Pierre, *op. cit.*, no. 774.

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tical result extension of the sphere of activity of these committees to the point where they concerned themselves with practically everything. This situation, inherited from the previous régime, continues to exist at the present day.

In each Chamber, there existed one other annual committee, known as the committee on accounts. This committee was composed of eleven members in the Chamber of Deputies and of nine in the Senate. These committees, which have been maintained until the present day, performed the function of preparing the internal budget for the Chamber and for the Senate and of supervising the public funds allotted to the Chambers for expenses.²⁴

In addition to these annual committees, the new règlement of each Chamber²⁵ established four special monthly committees. These four committees, which existed in the Chambers while they were still organized under their provisional règlements, were a committee of initiative, a committee on petitions, a committee on local affairs, and a committee on leaves of absence.

The function of the committee of initiative, as has already been indicated, was that of giving to private members' measures, except in the case of a declaration of urgency, a consideration preliminary to their discussion in the bureaux. The committee was composed of two members elected every month by each of the bureaux. Accordingly, it contained twenty-two members in the Chamber of Deputies and eighteen in the Senate. The activities of the other monthly committees are suggested by their names. Each was formed by the monthly selection in the bureaux of one member each.

Small committees, then, were the rule. Except for the financial committees and the committees of initiative in the two Chambers, a committee charged with the study of an ordinary legislative proposal was normally formed by the election of one member in each bureau. It was consequently composed of eleven members in the Chamber of Deputies and of nine in the Senate.²⁶ Each Chamber, however, might decide, at the time of sending any particular measure to the bureaux, that each bureau should name two or more committee members instead of one. As a result, though committees were composed regularly of eleven or nine members, a larger multiple of eleven or nine was exceptionally decided upon by the Chambers.

²⁴ Cf. Pierre, *op. cit.*, no. 1177.

²⁵ Chamber, Art. 20; Senate, Art. 17. Cf. Pierre, *op. cit.*, no. 741.

²⁶ The règlements (Chamber, Art. 3; Senate, Art. 11) confirmed these numbers provisionally adopted at the first meeting of Parliament.

Since each committee was set up theoretically for the study of one question, the life of the committee automatically came to an end when final disposal had been made of the measure which served as the basis of study. As a new measure, however, might at any time be referred to a committee already set up, a committee's life might be prolonged for a considerable time. In the case of the Chamber of Deputies, the end of the legislature was necessarily a limit; but, owing to the partial renewal of the Senate every three years, a committee in that body might be of great age.

The *règlemens* were silent with respect to the exact point at which a committee might properly be considered no longer to exist. However, inasmuch as the question was of little practical importance, this silence was no doubt natural. At the same time, since a committee was in charge of a measure during its public discussion and since the measure might in the course of this discussion be recommitted to it for further study, there is little doubt but that the committee might be considered legally to exist even after it had brought in its report. The practical aspect of the matter grew out of the fact that no member of either Chamber was permitted by the rules²⁷ to belong to more than two committees. In view of this prohibition, some point had necessarily to be determined at which a member who belonged to two committees might be considered free to become a member of another committee. The time at which the committee brought in its report was first established as such a point. To this, however, objection was made that considerable time might elapse between final discussion of a matter in committee and introduction of it and that no good reason seemed to exist why a member whose duties were really at an end should not meantime be chosen member of another committee. In accordance with this view, a decision was finally arrived at that the prohibition should be binding until such time as a committee should name its reporter. This choice should properly have been made only after the views of the committee had been fully determined. However, in practice, nothing proved to be easier than for a committee to name a reporter as soon as a measure was brought before it, precisely with a view to leaving members of the committee free to belong to other committees. For this reason and others which need not be mentioned here, stipulations concerning the number of committees on which one member might serve seem never to have been seriously regarded.²⁸

²⁷ Chamber, Art. 27; Senate, Art. 15. Cf. Pierre, *op. cit.*, no. 735.

²⁸ Cf. Pierre, *loc. cit.* See also Ch. IV, *infra*.

From this limitation on the "cumulation of mandates" the règlements²⁹ of both Chambers excepted the committee on accounts and the several monthly committees other than the committee on petitions. Moreover, in the Chamber of Deputies, the budget committee was considered to be of such importance that none of its members was eligible for election to another committee until such time as the reporters of the committee and all its sub-committees had been named. There was placed on the individual member the responsibility for declaring before his bureau his ineligibility for another committee. This action, however, seems rarely to have been taken.

No quorum for committees was established by either règlement. The only device attempted for securing regular attendance at committee meetings was a stipulation³⁰ that the names of those members present should be mentioned in the minutes.

The method adopted in 1876 for the selection of members of committees was one well known in France. It was, as has been indicated, that of choice in the bureaux after discussion. The members of each Chamber were distributed amongst its bureaux by lot at the beginning of each month. To these bureaux were sent for discussion those measures which the Chamber desired to consider. These measures fell roughly into the two classes known in England as "government" and "private members'" bills. In the case of the latter class of measures, those were sent to the bureaux which had been favorably reported by a committee on initiative or which, by being declared urgent, had been freed by the rules from the necessity of such report. In practice, favorable report by a committee of initiative became a matter of course; and a declaration of urgency was, as a simple matter of courtesy, rarely refused. Measures introduced by the Ministry were sent to the bureaux without any intervening step.

A measure, then, received simultaneously preliminary discussion in the several bureaux, that is to say, in as many places as there were bureaux in the particular Chamber in which the measure was being considered. It was after this discussion that each bureau selected one or more of its members for the special committee to which the measure was next to be referred. Furthermore, the rules³¹ of both Chambers stipulated that in exceptional cases the Chamber might decide, at the suggestion of one of its members, that a committee should be selected by *scrutin de liste*, that is to say, by the use of what is called in Amer-

²⁹ Chamber, Art. 27; Senate, Art. 15. Cf. Pierre, *loc. cit.*

³⁰ Chamber, Art. 25; Senate, Art. 24. Cf. Pierre, *op. cit.*, no. 746.

³¹ Chamber, Art. 17; Senate, Art. 19. Cf. Pierre, *op. cit.*, nos. 731, 739.

ica a "general ticket." The operation might be conducted either in a plenary sitting or in the bureaux. In the case of the second alternative, the bureaux were clearly little more than balloting rooms, though the view was held by some that preliminary discussion was not thereby precluded.³²

Provisions of the *règlements* ³³ of both Chambers stipulated that when the members of a committee had been named, the committee should be called together without delay by the President of the Chamber involved. The committee itself was then to proceed to name a president and a secretary and later, when the work of the committee had sufficiently advanced, a reporter.

Committees were in one simple respect recognized by the *règlement* of the Chamber of Deputies ³⁴ as having an indispensable part in the process of law-making. As has been indicated, one day in the week was set aside especially for their labors. In 1876, the committee report ³⁵ on the proposed *règlement* in the Chamber of Deputies advocated at length the desirability of thus giving a special day to the work of the committees. The report noted in the course of its argument that the Chamber had recently been compelled to adjourn for a week because the committees had not had opportunity sufficiently to study measures submitted to them and to furnish the Chamber with material for discussion. So far was the Chamber from objecting to this proposal that a suggestion was even made, as has been indicated, to give three whole days each week exclusively to the work of committees. This proposal and a subsequent suggestion that two days each week should be substituted for one were rejected only because a new step was being taken and because discretion seemed to suggest cautious experiment before so far-reaching a provision should be definitely adopted.³⁶

The *règlements* ³⁷ of both Chambers stipulated that the Presidents of the Chambers should communicate to committees all documents and other papers which concerned matters the committees were engaged in studying. It was determined that these documents and papers, as well as the minutes of the committees, might be consulted at any time by individual members of the Chambers, provided that such papers and documents were not removed from the meeting place of the committees and that the actual work of the committees was not thereby interfered

³² Cf. Pierre, *op. cit.*, no. 731.

³³ Chamber, Art. 25; Senate, Art. 24. Cf. Pierre, *op. cit.*, no. 743.

³⁴ Art. 29. Cf. Pierre, *op. cit.*, no. 760.

³⁵ J. O., 1876, mai-juin, p. 3920.

³⁶ *Ibid.*, p. 4041.

³⁷ Chamber, Art. 28; Senate, Arts. 25, 26. Cf. Pierre, *op. cit.*, no. 761.

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with. When the work of the committees had been completed, the minutes, documents, and other papers had to be placed in the archives of the Chambers.

In connection with the early French committee system of the Third Republic, some interest attaches to a detail contained in the règlement of the Senate²⁸ which was not found in the règlement of the Chamber of Deputies. This provision was concerned with the question of communication between committees and ministers. It thus anticipated in a measure the important problem of the relationship of a committee system to the executive in a parliamentary régime. The provision in question stipulated that such communication should take place directly, and that the agent of a committee should be its president or one of its members specially designated for the purpose. There was nothing to prevent other members in their individual capacities as Senators from approaching a Minister, but any pretense that an individual Senator spoke with authority as a committee member was justly resented.

In practice, the system of special committees gave from the very beginning results which were felt by many to be unsatisfactory. As a consequence, the practice developed of setting up from time to time, by special resolution, certain large or grand committees with general rather than special jurisdiction. This was, of course, contrary to the spirit of the règlements, though it was admitted by their letter to be a legitimate, if exceptional, practice. Consequently, as the practice became more and more frequent, the règlements, which had established the system of special committees as an integral part of parliamentary procedure, were, to that extent, in reality nullified. Furthermore, parallel with the tendency for these grand standing committees to be named in ever increasing number, a more and more persistent effort was made to supplant in the règlements (as was actually realized in practice) the principle of special committees by the principle of permanent grand committees. The incorporation, during the present century, of the existing system of grand committees into the règlement of each of the Chambers meant that actual practice and recognized principle had in the end become identical.

²⁸ Art. 27. Cf. Pierre, *op. cit.*, no. 748.

CHAPTER III

ESTABLISHMENT OF THE SYSTEM OF GRAND STANDING COMMITTEES

IN a real sense, the adoption in France in 1876 of a system of special legislative committees was a deliberate choice between two well-defined committee organizations. Though there appeared in 1876 no genuinely articulate advocacy of the division of the Chambers into permanent grand committees, such committees were definitely recognized at the time to be a possible alternative system. "For the preparation of laws," said a member of the Senate in 1876,¹ "two methods, gentlemen, offer themselves to parliamentary assemblies. The first is the institution of permanent grand committees, and the second is that of special committees. The system of permanent grand committees involves organization, at the beginning of each session, of a committee on finance and of committees on legislation; and each of these draws to it all questions of a like order, class, and family. . . . On the other hand, the special committees are set up only for an altogether special and determinate object, that is, for the purpose of expressing an opinion on a certain bill. They are set up with a view to ideas, incorporated into a bill, which have been the object of deliberation in the bureaux. The two systems have their advantages and their disadvantages."

The present important position of grand standing committees in the French governmental system suggests the desirability of an inquiry into the circumstances in which the original committee system gave way to that at present in use. At the same time, since, as has been observed, both committee systems were well known in 1876, an account would be misleading, if it should stress in any very marked manner the idea of a process of development or evolution, except in so far as might be meant a gradual tendency for one system to supplant the other. The system consciously rejected in 1876 was, a quarter of a century later, made by changing conditions the prevailing system. What had happened was not that an institution had been evolved by experiment, trial,

¹ J. O., 1876, mai-juin, p. 3940.

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and error to suit an altered situation; it was rather that sentiment had so changed that one well-defined system gave way to another.

In 1876, parliamentary sentiment was so nearly unanimously in favor of a system of small special committees, or, conversely, it was so nearly unanimously opposed to a system of grand standing committees, that little benefit is to be derived from an effort to analyze this sentiment. There was, as a matter of fact, almost no occasion for opinion to become articulate. At the same time, abundant evidence exists that the parliamentary majority of the opening years of the Third Republic recalled with much concern the ills emanating from the committees of the Revolution. This majority greatly feared a repetition of similar abuses. An instinctive dread of grand committees existed, which had its source in the same kind of sentiment that had caused the prohibition to be written into the Constitution of the Year III² that "neither of the Assemblies shall create in its midst any permanent grand committee."

This sentiment, which in the beginning caused the principle of special committees to be written into the rules of procedure of the Chamber of Deputies and the Senate, formed a strong support throughout for those who consistently opposed the adoption of a system of grand standing committees. These opponents were in many cases willing to admit the defects of the existing system. They opposed grand committees on grounds of high principle. They strongly advocated parliamentary government as a system; and they were fond of invoking the classic principles which were conceived to form its true basis. They believed that an institutional change of the nature proposed would endanger the very existence of the Constitution. They saw in the grand committees instruments which would so augment the power of the Legislature, at the expense of the executive, as to throw the parliamentary system out of balance; and they believed that this consideration should outweigh the argument, even if true, that the establishment of a system of grand committees would result in a better method of work and a more unified and better coördinated legislative output.

The institutional argument was naturally the main reliance of the opponents of the system of special committees. The well-founded contention that choice of committees by lot in the bureaux was antiquated and altogether unscientific was felt to extend to the system of special committees as a whole. The system, as well as the method of choosing its committees, was regarded as having been evolved in conditions from which were absent the demands on legislative action made by modern

² Art. 67.

social and economic conditions. Though good reasons are not lacking for thinking that the true causes of undoubted legislative ills were to be found deeper than in the system of special committees, many French parliamentarians not unnaturally turned to a system of grand committees as a remedy.

The opposition to permanent grand committees was ultimately overcome. From this fact the conclusion might well tend to suggest itself that those finally became a minority who saw in the establishment of grand committees reasons for fearing stultification of the nature of parliamentary government in France. And yet the matter was not in reality so simple. If all those who were convinced that the grand committees would result in confusion of the legislative and executive powers had remained in opposition to the establishment of the system, such a system might very possibly not exist in France to-day. Those who held this conviction did remain superior in number to those who saw in the matter only a question of a method of work; but into the ranks of the former group there entered in increasing number many who did not fear but on the contrary welcomed the confusion of powers. The latter, accordingly, supported the proposed grand committees; and the division was not between two classes of believers in the parliamentary system who disagreed concerning the probable effects of an institution. To those who did not foresee misfortune for parliamentary government were added those who welcomed it. In this fact is to be found a key to the true explanation of the establishment of a system of grand committees in the French Parliament and of the real attitude of Frenchmen toward that system.

The First Grand Committees

Even in 1876 the fear of grand standing committees and the consequent opposition to them were not pushed so far as entirely to offset the weight of practical considerations in favor of such committees. This was especially true, as has been observed, in connection with the committee on finance in the Senate and the budget committee in the Chamber of Deputies. Indeed it was in connection with the Senate committee that for the first time in the course of the Third Republic issue was joined between special committees, which were accepted from the practice of the Legislative Assembly, and permanent grand committees, which were inevitably associated with similar institutions of the Revolutionary period. Proposal of an amendment suggesting the establish-

ment in the Senate of the grand committee on finance³ was merely the first occasion for public discussion of this vexed question, which was periodically to be renewed in the French Parliament from that time to the present day. A similar committee, the budget committee, was established without opposition in the Chamber of Deputies,⁴ where nothing unnatural was felt to be involved in such an exception to the regular system of special committees. The feeling in the Senate, however, was not altogether the same. In the Chamber of Deputies, any objection to the budget committee could be met by argument from established practice; and furthermore reference was possible to a stipulation of the *règlement* which recognized the possibility that work normally done in the budget committee might be handed over by the Chamber, if it should so desire, to a special committee. In reality, the fact that from the beginning this alternative possibility was not applied in practice shows how strongly the first grand committee of the Chamber of Deputies was entrenched in its position. The finance committee of the Senate encountered more opposition. Practical considerations, as has been seen, prevailed in the end in causing the Senate to adopt this grand committee; and this was precisely the kind of reason which, according to the argument of the sponsor of the committee, ought to determine the matter. Though he anticipated objection to his proposal on theoretical grounds, he defended the suggested committee as calculated to make for greater efficiency in the work of the Senate.⁵

In this debate for the first time a phenomenon appeared which frequently manifested itself on subsequent occasions. The arguments of the advocates and the detractors of permanent grand committees stood on different planes. On the one hand, the committees were proposed and defended as an important instrumentality for improving the parliamentary method of work. On the other hand, those who attacked these committees naturally could offer no objection to the desirability of improvement in method. They found fault with the means proposed. These detractors believed that they saw in the establishment of permanent grand committees a higher question. They argued that even good parliamentary method should be disregarded if danger for the parliamentary system itself was involved.

In the Senate, objection to the creation of a grand committee was anticipated. Sufficient answer to such objection was argued to be present in the existence of the budget committee in the Chamber of Depu-

³ See Ch. II, *supra*.

⁴ See *ibid.*

⁵ J. O., 1876, *loc. cit.*

ties. Senators, however, whose objections were founded on convictions of a high political character were not thus easily to be answered. They were not to be silenced by having their objection anticipated and lightly passed by. They continued to assert that their objections were well founded on historical considerations, on the character of the procedure incorporated into the provisions of the *règlement*, and, more important still, on the true nature of the government set up by the Constitution.⁶

According to Senators who opposed the institution of a grand standing committee, history demonstrated the true relationship between the two varieties of committee. In practice, national assemblies had organized themselves into permanent grand committees when they were constituent bodies; but when these bodies were purely legislative in character, they had adopted a system of special committees. History, furthermore, was said definitely to have demonstrated that experience with permanent grand committees was far from reassuring.⁷ On this occasion, for the first time, as frequently appeared in subsequent discussions concerning grand committees, many public men showed themselves to be possessed of an instinctive distrust of anything which recalled the Revolutionary committees. Adoption of the amendment proposing the Senate finance committee would, as one member said,⁸ "have as a result the creation and institution of a permanent grand committee." The possibility of such a result, he stated, aroused "many prejudices" and awakened "bad memories." Grand committees, he argued, might be natural in an assembly concentrating in its hands all governmental powers and activities; but such organs had no proper place in a parliamentary system.

The argument based on the provisions of the *règlement* was simple. The institution of the proposed finance committee in the Senate was held to be contrary to the spirit of the *règlement* inasmuch as the whole *règlement* was founded on the principle of special committees. The Senate had followed its committee on the *règlement* in preferring to a system of permanent grand committees a system of special committees. The second system had been incorporated into the *règlement*. The proposed amendment would establish a committee which was not only not a part of the system adopted but, on the contrary, was possessed of characteristics of a different and even opposite system. There seemed, it was argued, to be no good reason for an exception.⁹

Opponents of the Senate finance committee were not without ob-

⁶ Cf. *ibid.*

⁷ Cf. *ibid.*

⁸ *Ibid.*

⁹ Cf. *ibid.*

jections of a special nature, which, they held, were in themselves sufficient to cause their opposition to the proposed amendment. At the same time, their strongest argument was based on constitutional principle as supported by history. They felt that permanent grand committees were calculated to injure the proper balance in the parliamentary system by strengthening the legislature at the expense of the executive and to destroy the harmony which should exist between the several branches of government. In this strain the leading speaker against the amendment made his peroration. "I am glad," he said,¹⁰ "to point to a great authority who is entitled to all my respect and to all the respect of the Senate. . . . It is the authority of the venerable president [M. Corne] of the committee on the *règlement*. Let him permit me to recall to him what were his ideas when he made the report on the *règlement* in 1849. The quotation will be short but I assure you it will be expressive. . . . I read in his report: 'Permanent committees are of the essence of constituent assemblies, which have in them the plenitude of powers and which, in order to exercise the sovereignty they hold from the people, not only make the laws but perform the acts of government. *Permanent committees*, under an assembly restricted to *legislative power*, would be an incessant occasion of *encroachment and of conflict*.' "

The advocates of the finance committee in the Senate refused to leave the position which they had chosen. They were unwilling to meet the attack on higher ground. Their only reply was once more to stress the practical benefits which would accrue to the Senate through the possession of a large finance committee. M. Léon Say, Minister of Finance, contrary to the present practice of members of the Government, who scrupulously refrain from taking part in discussions concerning the *règlements* of the Chambers,¹¹ succinctly put the position of those who supported a finance committee for the Senate. This well-known authority on public finance, who was later to direct severe criticism at this very Senate committee as well as at the budget committee in the Chamber of Deputies,¹² in 1876 urged his colleagues to adopt the proposed amendment. "I ask the Senate," he said,¹³ "to put aside the great distinction between permanent grand committees and special com-

¹⁰ J. O., 1876, *loc. cit.*

¹¹ See André J.-L. Breton, *Les Commissions et la réforme de la procédure parlementaire* (Paris, 1922), Int., p. xix. But cf. Joseph-Barthélemy, *Essai sur le travail parlementaire et le système des commissions* (Paris, 1934), p. 193.

¹² See Ch. VI, *infra*.

¹³ J. O., 1876, *loc. cit.*

mittees—it does not appear to me to exist in the circumstances—and to consider rather the interest of the good expediting of business.”

The opponents of the finance committee insisted with some reason that their arguments had not been answered. One speaker argued that the proposed committee was by nature likely to end by encroaching on the functions of the Senate itself as well as on those of the Government. He held that such a committee was no more capable of serving as a suitable substitute for the Senate as a whole than it was properly qualified to act as the authority for controlling the Government.

The leader of the advocates of the finance committee in the Senate professed in his last word that he was himself opposed to the principle of permanent grand committees. He argued convincingly that the proposal under consideration was an altogether special case.

The resolution demanding institution of the finance committee was adopted.¹⁴ Thus, the same practical considerations which had caused the Chamber of Deputies to accept without debate its budget committee prevailed in the end with the Senate. The first legislature of the Third Republic in this way established the two committees from which are directly descended the most powerful committees of the present-day system.

This debate in the Senate, in the first year of the operation of the Constitutional Laws of 1875, joined definitely the issue between grand and special committees; and it foreshadowed the nature of the opposition which had to be overcome before the system of special committees was finally to give way to a system of grand committees. Moreover, the debate squarely encountered the difficulty of maintaining argument on common ground and of thus keeping the issue clear and distinct. As has been suggested, the opponents of the grand committees, on this occasion as on many subsequent occasions, envisaged the question not so much in its institutional character as in the broader perspective of its constitutional bearing. The Constitution was intended to establish a parliamentary system of government. This involved, on the one hand, a Ministry responsible to Parliament but not subordinate to it and, on the other hand, a Legislature the sphere of which was, in broad outline, determined. An institution, even if apparently good in itself, was contended to be unacceptable if the tendency could be foreseen for the institution to disarrange the parliamentary system itself through encroachment of the Legislature on the Ministry. Such persons as might hold a different conception of the parliamentary system or as might

¹⁴ See *ibid.*, p. 4022.

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be opponents of this system could remain unmoved at a prospect of this sort; but those who advocated parliamentary government in its true form had to become convinced that the supposed dangers to the system did not exist. The possibility of confusion in thought grew partly out of the fact that the advocates of grand committees felt constrained to employ two sets of arguments of a different order and partly out of the fact that in practice the institutional and constitutional aspects of the question were not always kept as distinct as it seems possible to keep them. The argument could be legitimately made that a system of grand committees would as an institution improve the working methods of Parliament and that such a system would involve nothing to be feared on constitutional grounds; but the conclusion could with much less reason be drawn that no dangers from a constitutional point of view were to be anticipated because by the institution of grand committees parliamentary procedure would apparently be simplified.

Grand Committees before the Chamber, 1882

The budget committee in the Chamber of Deputies and the committee on finance in the Senate were from the beginning, as has been seen, exceptions to the regular committee organization of the French Parliament. In respect of their size, duration, and jurisdiction, they were differentiated from the ordinary special committee. In this way, they represented a first step in the gradual displacement of special committees by grand committees. In the course of the last quarter of the nineteenth century, belief in the desirability and even necessity of submitting kindred questions to the same committee slowly gained ground in Parliament; and this belief resulted in two successive and related steps. At first certain individual grand standing committees were created; and later a complete system of such committees was established. In the second respect, only two or three legislatures had lived out their lives when, coincident with the growth of republican elements in Parliament, more and more persistent efforts were made to substitute a complete system of such grand committees for the system of special committees. Efforts of this kind recurred regularly every four years at the beginning of each legislature. The earlier attempts furnish the inquiring student with formal proposals, accompanied only by *exposés des motifs*; for the proposals failed to arouse in the beginning sufficient support to prevent their expiring in the committees on the *règlement* to which they were referred. Later, however, the material for study was increased by elaborate reports penned on behalf of the committees on

the règlement by some especially interested member; and, more important, these reports became the subject of a series of debates of the greatest importance and interest. In the result, the Chamber of Deputies adopted a system of grand committees in 1902; and the Senate, naturally slower, followed the lead of the Chamber in 1921.

At the beginning of the year 1882, an important addition was made to the grand committees on finance when in the Chamber of Deputies a committee was established into the general sphere of which should fall questions relating to the army.¹⁵ Though a similar effort had been made unsuccessfully in 1876, the opposition at this later time was not sufficient to cause the rejection of the proposal.¹⁶ The importance of the whole question was recognized by the committee of initiative, which examined the resolution proposed and which carefully considered the supposed advantages of the establishment of such a committee.¹⁷ In the result, the committee of initiative felt that favorable considerations were outweighed by the fact that the proposal was contrary to the existing règlement. Establishment of the committee on the army, it was held, would, by eliminating study at the hands of the committee of initiative and by doing away with preliminary discussion in the bureaux, seriously alter the regular procedure of the Chamber. Nevertheless, in spite of this adverse committee report, the proposal was ordered by the Chamber to be sent to the bureaux. It was in due course reported favorably to the Chamber by a special committee which had chosen the author of the resolution as its reporter.¹⁸ The report stressed the argument that the proposal in no way involved setting up a system of grand committees. There could, therefore, be no question of the necessity of referring the question to the committee on the règlement. The point at issue, the argument ran, was that of an altogether exceptional and isolated case, need for reforms in the army having forced itself on the attention of all. In view of this fact, the special committee felt that a standing committee on the army was urgently required. The last legislature, it was asserted, had experienced many disadvantages through dispersion of effort in respect of military measures. Precisely where "there ought to prevail a perfect community of views" there had been lacking "a common principle and a single conception."

The proposal to establish a standing committee on military affairs, thus approved by the special committee, received the benefit of a decla-

¹⁵ J. O., 1882, Docs. Ch., S. O., no. 442 (24 février), pp. 402-403.

¹⁶ Cf. Breton, *op. cit.*, p. 22.

¹⁷ Cf. J. O., 1882, *loc. cit.*

¹⁸ For the Report of M. Ballue, see J. O., 1882, Docs. Ch., S. O., no. 640 (21 mars), pp. 912-913.

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ration of urgency and with verbal alterations was adopted by the Chamber.¹⁹ The adoption of the resolution by the Chamber clearly illustrated a simple but important principle. The proposers of a particular grand committee, relying on practical considerations of efficiency and good method, could succeed where those could not who supported as a principle the establishment of a system of such committees. On the same day on which the army committee proposal was favorably reported by a special committee, a resolution proposing the establishment of a system of grand committees was ordered printed and distributed.²⁰ Within less than ten days the establishment of a grand committee on the army was an accomplished fact. The proposal concerning a system of grand committees did not succeed in securing a public hearing.

The resolution proposing in 1882 a system of grand standing committees deserves, in spite of its summary treatment, serious consideration; for it was the first definite attempt to supplant the system of special committees by a system of grand committees.²¹ Moreover, the author of the proposal remained a foremost champion of grand standing committees; and his reports form perhaps the most voluminous contribution of any one pen to the history of French parliamentary committees. In 1882 he wrote as an introduction to his proposal a long and searching criticism of the existing *règlement*, a laborious and compendious study of the history of legislative committees, and an ardent exposition of the advantages of the institution of a system of annual grand committees, freely recruited and corresponding in a general way to the great public services. The arguments presented on this occasion did not prevail with the Chamber; but the fact that in the controversies and debates which took place in subsequent legislatures few new arguments could be added by the supporters of grand committees to the arguments presented in 1882 is striking evidence of the force with which the proposal was urged at this time.

The time was argued to be ripe for the proposal of a system of grand standing committees for the Chamber. Beginning with the fall of the Second Empire, legislatures had been confronted with the task of firmly founding the Republic. In 1882 the efforts of the Republicans at last seemed with some reason to warrant hope in the permanency of the new Constitution. As long as the Constitution itself had been in peril, efforts to improve legislative procedure, it was admitted, had appeared premature. However, ran the argument, the recent elections

¹⁹ See J. O., 1882, Débs. Ch., 29 mars, p. 425.

²⁰ See *ibid.*, Débs. Ch., 21 mars, p. 354.

²¹ For the proposal of M. Georges Graux here cited, analyzed, and quoted from, see *ibid.*, Docs. Ch., S. O., no. 639 (21 mars), pp. 908 *et seq.*

had imposed the accomplishment of certain reforms as a mandate on the new Chamber. This fact suggested looking to the working rules. The belief that they could and should be improved was what in reality led to the proposal for the establishment of a system of grand committees.

The supporting arguments written as an introduction to the 1882 proposal of a system of grand committees not unnaturally dealt with a wide variety of particular questions connected with the organization of such a system. In addition to this, the proposal considered the problem of such a system in its political bearing. Though the two elements cannot of course be altogether divorced, the broader grounds on which the question was discussed at this time and on which controversy took place in several succeeding legislatures are peculiarly important and instructive. The starting point was naturally criticism of the existing *règlement*. Furthermore, historical considerations threw light on the question in several ways. Such considerations explained in large measure the instinctive opposition on the part of many Deputies to the proposed committees. At the same time, history could be invoked to support the establishment of a system of such committees. Moreover, the experience of history was the basis for an effort to distinguish differences between the Revolutionary grand committees and those proposed at this time. If this distinction could be maintained, then the fundamental objection of the opponents of a system of grand committees could be successfully met. Finally, on the side of more positive argument, the proposal stressed certain advantages anticipated from the proposed change.

The criticism which in 1882 served as the starting point in support of a system of grand standing committees was, as invariably happened with respect to advocacy of such committees, especially directed at the method by which special committees were chosen and at the large rôle played by lot and chance in this system. The system as it existed offered little certainty, the argument ran, of resulting in "the serious preparation of each bill which comes up for public discussion." What was desired was that all proposals should receive attention at the hands of capable men and that measures which were of a like nature should be properly coördinated. But this was far from realized under the existing system. A special committee was by no means sure to contain the persons best qualified to study the measure involved. Into a bureau which, as in the usual case, was to select only one committee member, several well-qualified men might be thrown by lot. All but one of these persons would of necessity be eliminated from the committee. From another bureau lot might eliminate all competent members, with the result that

no course was open but to name a Deputy unfitted for a study of the measure proposed. If the matter in question should be primarily of a political nature, in which case it would seem desirable for all points of view to be represented in the committee, the minority in the Chamber might be altogether excluded or it might even be found in a majority in the committee. Furthermore, practice showed that similar questions were often referred to different committees. In such a case, dispersion of effort was especially manifest. Even if certain Deputies should at times happen to belong to two committees involved, the committees might well meet at the same hour; and hence the physical impossibility would exist for members to be at the same time in two different places. This, together with the fact that in practice no connection at all usually existed between committees studying the same or similar questions, rendered impossible the unification and coordination of legislation, which would be admitted on all hands to be desirable.

Criticism of the system of special committees in respect of lack of unity of effort doubtless appears at the present day to be well founded. At the same time, improvement might possibly have been realized in other ways than by the establishment of committees with general jurisdiction. Again, the question of the representative character of committees and the matter of opportunity for development in them of individual capabilities may to-day readily be admitted to be of paramount importance. However, the case for minority representation and for the presence on committees of competent members was in the circumstances not at the time extremely strong. The question was really one of method of selection and not of the nature of the committees. As a matter of fact, grand committees were for a considerable period of time elected in the bureaux. The principal difference was that each bureau selected three or four members instead of one. Accordingly, where several competent persons were thrown by lot into one bureau, three or four, instead of one, might undeniably become members of the committee; but in the case where lot eliminated from a particular bureau all competent Deputies, the evil of the special system was actually exaggerated. The same possibility of exaggeration existed in respect of the uncertainty of minority representation.

In order for history to be invoked at this time in support of the proposed system of grand committees, two things had to be done. In the first place, the evil memory of committees of the Revolution had to be overcome by convincing argument showing that the causes of the ills which indisputably resulted from the activities of these committees would not be found attendant on the proposed grand committees. In

the second place, proof had to be suggested that the causes of the commendable accomplishments of the Revolutionary committees would be found present in connection with the proposed system. In other words, the claim had to be made that the grand committees proposed at this time would realize all of the good and none of the bad of the committees of the Revolution. This the proposer of the 1882 resolution did not hesitate to do.

The resolution of 1882 did not deny that many excesses were properly to be associated with the committees of the Revolutionary epoch. The particular deeds of the Committee on Public Safety were notorious. In general, the existence of permanent committees was recognized to give occasion for the confusion of powers by the encroachment of the legislative on the executive. This was not defended. "Permanent committees," ran the resolution, "are a necessary institution under direct government; they would be an abnormal institution under a republican government." Therefore, no question was supposed to exist of proposing the reestablishment of permanent committees. The resolution agreed that the dangers of committees of the Revolutionary type resulted from two causes. The first was the permanence of the committees, and the other was the possibility that the committees would correspond exactly to the Ministries. The argument implied that if these two characteristics could be removed, ground for fear would no longer exist. Accordingly, the resolution proposed that the committees should in the first place be annual, with the members only once reëligible, and in the second place that they should not correspond exactly to the organization of the various Ministries. "Annual committees might," admitted the author of the resolution, "become veritable permanent committees if their members could during the whole legislature remain inscribed on the same committee." Hence, no more was necessary than to stipulate that no Deputy could be successively a member of the same committee for more than two years. Also, the second difficulty was met by the simple device of so arranging the names and the number of committees that the committees would not correspond to the several Ministries. At the same time, the resolution recognized that some difficulty might exist. "It ought not, indeed, to be the case," it ran, "that a committee can have the appearance of being a committee of supervision over a ministerial department. It ought not to be the case that a conflict can exist between the legislature and the executive power. It ought not even to be the case that in a moment of trouble a legislative committee can be transformed into an administrative committee managing a ministry." But under the proposed plan there was nothing to fear. "If, indeed, a

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committee should wish to take charge of a ministerial department, it would find beside it another committee having the same pretension; and with two committees corresponding in a general way to the same ministry, these two competitors would result in the avoiding of all usurpation."

The two arguments set out at this time were repeated on more than one other occasion in the course of subsequent debates on grand committees. On theoretical grounds, and at least equally in view of later experience, these contentions remain not altogether convincing. The good faith of the advocates of grand committees need not be doubted in order to suspect that the proposals for avoiding the permanent duration of grand committees were prompted rather by a desire to remove the objections of opponents than by a conviction that the committees should at all costs remain annual. In practice, isolated grand committees established from time to time became from the nature of the case permanent committees; and, more significantly, when the establishment of a system of grand committees seemed to be assured in 1898, advocates of the grand committees suddenly shifted from support of annual committees in favor of permanent committees. Even when the grand committees became annual, the view was held that reëlection would be the rule and that as a result permanence in fact would be realized.

Theory and practice combine, then, to suggest that proposals made in 1882 to secure the annual duration of grand committees would have been certain to prove unavailing against the strong tendency toward permanence. An equal tendency appears to exist for grand committees to approximate in their organization to the organization of the Ministries. As a matter of fact, exact parallelism in this respect was later frankly argued to be inevitable; and in very recent times it has been openly advocated as desirable. But, even without this, the idea that grand committees will neutralize one another in their efforts to encroach on the executive authority is, though often advocated, scarcely convincing. If a tendency should in reality manifest itself for grand committees to make life unpleasant for administrative officials, only a strange logic would suggest that two or more committees in combination would be pleasanter than one alone.

According to the advocates of grand committees, the real lesson to be learned from the study of history was that not only were no evils to be feared from such committees but, on the contrary, much actual good was to be anticipated from their establishment. The immense amount of constructive legislation which was said to have emanated from the assemblies of the Revolution was not, it was argued, to be attributed

to the superior quality of the men of those times but to their better method of work. "This method consisted in the institution of permanent committees composed of men prepared by their previous labors for the study of those special questions which were submitted to them." The method, it was held, was responsible for the great accomplishment which consisted of a group of laws destroying the ancient régime and effecting the general organization of France on the broad bases which in large measure survived all subsequent political vicissitudes. High authority could be invoked in this respect. "Without these permanent committees," M. Vivien was quoted as having said in 1848, "dedicated to the same labors, consecrated to consecutive studies, and ceaselessly enlightened by the repeated accomplishment of their duties, would the Constituent Assembly have been able to produce those immortal results? Let a similar task be proposed to our Chambers under their present organization and their impotence would soon bear witness to the inferiority of their methods of execution." To improve these methods was the chief object of the resolution proposed in 1882. "In order," it ran, "to give to legislation emanating from the Chamber of Deputies of 1881 the harmony, unity, and precision only too rarely met with in laws voted by preceding legislatures, we come, gentlemen, proposing to you to introduce into your règlement a modification which merely returns towards the past and borrows from the règlements of republican assemblies."

To the proposal of 1882 viewed even in this light certain objections had to be anticipated. In the first place, the argument might be advanced that the Conseil d'État, being a body already in existence and one composed of men of much competence, was well able to bring to the study of proposed laws the expert knowledge required and to secure the unity and coördination which are so desirable in a legal system. The simple answer made was that the Conseil d'État did not actually perform this part of its functions. Again, objection could be made that without change in the règlement the possibility existed of setting up grand committees when needed and likewise of referring to committees already in existence, grand or special, new measures which might be introduced. The reply to this objection was the simple assertion of the necessity for further steps based on the argument that experience showed the possibilities under the existing règlement to be insufficient. Finally, the opposition of those who were unwilling to see the elimination of discussion in the bureaux had to be anticipated. To this the ready answer was returned that such discussion was in practice for the most part non-existent,

Grand Committees before the Chamber, 1886

In the course of the first year of the following legislature, three new proposals were made in the Chamber of Deputies looking to the establishment of a system of grand committees. None of these proposals received the benefit of a report from the committee on the règlement or came before the Chamber for public discussion. The only opportunity, therefore, for their proposers to advance the cause of the grand committees was, as in the case of the resolution proposed at the beginning of the previous legislature, to set out in explanatory remarks preceding the resolution the arguments for and against grand committees. Two of these proposals²² were introduced in practically identical form in the following legislature, on which occasion they received along with other proposals a serious report from the committee on the règlement and were the subject of a long and heated debate. The third proposal²⁷ was characterized by several arresting aspects. The resolution advocated the creation of six grand committees. The establishment of such a system was supported, as in other cases, by criticisms of the existing system. Moreover, the resolution attached considerable importance to historical considerations. The committees of the Revolutionary assemblies, it was argued, gave commendable examples of efficiency and power. On this basis, the resolution maintained that in reality only benefit would result from the existence of strong legislative committees in the Chamber. The argument, far from showing fear of strength on the part of committees, welcomed it. Indeed, precisely at this point a new note was struck. A first hint was given of a view not based on the conventional interpretation of the nature of parliamentary government but frankly inspired by admiration for the Revolution. According to the principles invoked, confusion of powers was not to be apprehended precisely because the executive would be reduced to such a minor position in the organization of government that no real question could exist of encroachment by the Legislature.

Grand Committees before the Chamber, 1889-1890

At the beginning of the fifth legislature, the first great debate on the establishment of a system of grand committees took place in the Cham-

²² One of these proposals was that of M. Letellier, introduced on December 10, 1885; the other was that of M. Henry Maret, introduced April 19, 1886. For the first, see J. O., 1885, Docs. Ch., S. E., no. 204 (10 décembre), pp. 680 *et seq.*; for the second, see J. O., 1886, Docs. Ch., S. O., no. 688 (19 avril), pp. 1544 *et seq.*

²³ For the proposal (by M. Jouvencal), see J. O., 1885, Docs. Ch., S. E., no. 70 (21 novembre), pp. 285 *et seq.*

ber of Deputies. It is doubtful whether any of the subsequent debates reached quite the same level. Four important resolutions proposing the establishment of a system of grand committees were introduced into the Chamber in November, 1889.²⁴ They received the benefit of a declaration of urgency and from the bureaux were referred all to the same committee. Just a month after introduction the resolutions were reported to the Chamber by the special committee on the règlement.²⁵ In the first week of February, 1890, the proposals were the basis of public debate.²⁶

Of the four resolutions proposed at this time, two had been introduced in practically identical form during the preceding legislature; and of these two, one in turn had been introduced during the third legislature as well.²⁷ Not unnaturally all of these proposals bore striking resemblance to one another. The starting point in each case was criticism of the existing system. This criticism was based on the familiar objections that the personnel of the committees suffered when chance threw too many or too few competent members into the same bureau and that minorities were rarely properly represented. The preliminary remarks of one resolution²⁸ expressed a condemnation of the existing system which served as a favorite quotation of the advocates of grand standing committees on many subsequent occasions. "These manifold special committees," it ran, "named according to the chance composition of the bureaux, having no tradition, being unable to devote themselves to any consecutive study within a sphere of determinate ideas, and the members of which will presently be scattered among other committees having an absolutely different object, present the image of a very complicated mechanism of which the wheels and the various parts are entangled in one another and which, for a great expenditure of effort and movement, gives only insufficient results."

The several resolutions offered striking evidence that the ultimate

²⁴ See J. O., 1889, Docs. Ch., S. E., no. 7 (16 novembre), pp. 4-6; no. 5 (19 novembre), pp. 1-2; no. 6 (19 novembre), pp. 3-4; no. 31 (19 novembre), pp. 69-71.

²⁵ For the report (by M. Francis Charmes), see *ibid.*, no. 173 (12 décembre), pp. 337-341.

²⁶ See J. O., 1890, Débs. Ch., 4 février, pp. 173-180; 5 février, pp. 187-197; 7 février, pp. 202-211.

²⁷ The first was sponsored by MM. Letellier and Graux. It was practically identical with the proposal of M. Letellier introduced into the Chamber at the beginning of the previous legislature (see Note 22). At this time, M. Graux associated himself with M. Letellier. The other was proposed by M. Henry Maret. It was couched in words for the most part identical with those of the resolution introduced by the same Deputy during the fourth legislature (see Note 22).

²⁸ The authors were MM. Siegfried and Léon Bourgeois. See J. O., 1889, Docs. Ch., S. E., no. 6 (19 novembre), p. 3.

establishment of a system of grand standing committees in the Chamber would result from a kind of predestined movement of opinion. The real question at the time was whether opinion had reached the necessary point. In repeating criticism of special committees, the authors of the resolutions did not appear to be conscious of suggesting anything novel. They took for granted that every one was agreed on the shortcomings of the existing system and hence on the need for reform. They likewise assumed that experience with isolated grand committees had convinced every one of the superiority of such committees. Hence, they were constrained to conclude that an assumed universal agreement in respect of the faults of the existing system suggested an inquiry concerning the absence in fact of a better system. In other words, explanation seemed more pertinent than advocacy or defense.

The advocates of grand committees at this time were from the nature of the case obliged to admit the existence of considerable opposition. The only way to anticipate it and to answer it was frankly to recognize it. "At bottom," suggested one of the resolutions,²⁰ "there is fear of the encroachment of grand committees on the domain of executive power. The belief is that these delegations of the Chamber, parallel to the ministerial departments, may impede or paralyze the will of the ministers themselves, to whom alone ought to belong the action, since they alone have the responsibility. The very name *permanent* has itself been a cause of distrust, for by its meaning of continued existence it awakens the idea of formidable power."

Needless to say, the authors of the resolutions of 1889 considered fears that establishment of a system of grand committees would result in stultification of the parliamentary system to be at best very much exaggerated. "We are convinced," they said,²⁰ "that it is not only possible but easy to remove all pretext for these fears." They wished their opponents to give consideration to "certain provisions which appear . . . to eliminate the hypothetical danger at which they seem too easily to become alarmed."²¹ One of the suggested means was annual election. Another was the proposed restriction of committee activity to purely legislative functions. Finally, the number of committees was to correspond to the great public services rather than to the Ministries, the argument being that, with one Ministry opposed by several committees, the committees would tend to neutralize one another.

The advocates of the grand standing committees, however, were not

²⁰ The authors were MM. Siegfried and Léon Bourgeois. See J. O., 1889, Docs. Ch., S. E., no. 6 (19 novembre), p. 3.

²⁰ *Ibid.*

²¹ From the proposal of MM. Letellier and Graux. See *ibid.*, no. 7 (16 novembre), p. 5.

satisfied to end on a note of defense. After all, they insisted, positive virtues of the proposed system demanded its acceptance. One alleged advantage was that of *specialization*, which would allow every man to work according to his tastes and his abilities. Another was *coördination*, which, it was claimed, would cause anomalies of every sort to disappear from legislation. "In our conviction," wrote a proposer,³² "laws will be better studied by the grand committees. Reforms will follow one another in logical order, and, finally, there will be a real method of work. The result, and it is not to be disdained, will be that the committee will have much more to do than to-day and that public sessions can become less frequent."

The four resolutions proposed at this time all received serious consideration at the hands of the committee on the *règlement*.³³ In this committee, however, an initial victory was scored by the opponents of the grand committees. The committee rejected by a vote of ten to six the principle of division of the Chamber into annual grand committees.³⁴ An opponent of the proposed system was chosen to present the views of the committee to the Chamber.³⁵ His report recognized that the criticism which had been brought against the existing system was of great value. Moreover, the report gave a fair and clear outline of the various alleged defects in the system and of their supposed causes. However, the committee believed that the views presented by the critics were altogether too pessimistic; and it could not bring itself to agree to the remedy suggested. Its reason for rejecting the proposed system of grand committees was threefold. The committee believed that the improvements desired were possible under the existing *règlement*. It did not regard as clearly proved the contention that the new system would correct the faults of the old. Finally, it foresaw that "the grand committees might have a shameful influence on the very character of our government, such as the Constitution has established it, and on the operation of the public powers."

This last reason, based on political principle, was, as had been anticipated in the proposals, the principal ground for objection on the part of the committee on the *règlement*. This consideration alone was regarded as sufficient to cause the rejection of the proposed plans. The proposers, in trying to escape the dangers, had at least performed a

³² M. Maret. See *ibid.*, no. 31 (19 novembre), p. 69.

³³ For the composition of this committee of twenty-two members, see the Charmes Report (Note 25), p. 337 n.

³⁴ *Ibid.*, p. 338.

³⁵ The report here analyzed and quoted from is the Charmes Report (see Note 25).

service in not failing to recognize them. At the same time, efforts to explain away the objection, it was not without reason argued, had been without success. "These grand committees," ran the report, "involve in our eyes the risk of assuming a formidable importance either in relation to the executive power, represented by the different ministers, or even in relation to the Chamber of Deputies itself. This importance will soon become . . . a source of embarrassment, perhaps a menace, to the responsible possessors of the executive power."

The report of the committee on the *règlement*, having received the benefit of a declaration of urgency, came before the Chamber of Deputies on February 3, 1890. The debate on the report lasted three days.⁸⁶ In accordance with French practice, examination of the articles of the measure reported by the committee was preceded by "the general discussion." No limitation being placed on this general discussion, the speeches of the general discussion on this occasion developed in its fullest scope the controversy with respect to the establishment of a system of grand committees. In further accordance with the custom of the French Chambers, the speeches were made alternately by the supporters and the opponents of grand standing committees. The principal speakers who favored establishment of the system were the well-known liberal statesman, M. Léon Bourgeois; the veteran student of parliamentary procedure, M. Georges Graux; and such students of the science of politics as M. Henry Maret, M. Émile Jamais, and M. François Deloncle. The speakers who took a leading part in opposing the proposed system were M. Francis Charmes, reporter of the committee on the *règlement*; M. Armand Després, a physician, a member of the Paris Communal Council, and a newcomer in Parliament; and MM. Thellier de Pontcheville and Antonin Proust.

In the course of the debate, historical argument was employed by all the speakers; so that it was made to support both sides of the same question. This phenomenon, as experience makes abundantly clear, is not unusual; and one speaker on the present occasion was frank enough to suggest that history can be made to support any view.⁸⁷ However, each side took exception for the most part to the employment of history by the other and argued that the facts adduced, far from supporting the case of its opponents, supported its own. The principal issue was the familiar one of the committees of the Revolution. Opponents of the grand standing committees pointed with horror to the excesses of the

⁸⁶ February 3, 4, 6. See Note 26.

⁸⁷ Speech of M. Thellier de Pontcheville. See J. O., 1890, Débs. Ch., 7 février, p. 203.

Revolutionary committees and predicted that the proposed system would produce the same evil results. Supporters of the grand standing committees recited with pride the solid accomplishments of the committees of the Revolutionary period and confidently prophesied that the system proposed would result only in good. At all events, the character of the disagreement served to suggest that the underlying issue tended to be political. The persistence of the ideology of the Revolution is well known. To accept or not to accept the Revolution forms, according to M. André Siegfried,¹⁸ "the essential line of demarcation" in the basic dichotomy of French political opinion. Naturally, then, the tendency was for one school of thought to stress the excesses of committees and to look at them askance, for the other to dwell on the effective accomplishments of committees and to view them with favor. The second position is of course substantially that of the parties of the Left; for though advocates of the proposed grand committees were not confined to the Left, support for them was more natural and congenial in the case of the "advanced" parties. As this sort of opinion tended to become that of the majority, the grand committees tended to become an institutional manifestation of existing majority opinion.

The supporters of grand standing committees at this time, while making full use of argument from more remote history, preferred to base their advocacy on contemporary experience and facts. They repeatedly insisted in the debate that the real question at issue was one of effective working method. They were convinced that the legislative output of the Third Republic had been unsatisfactory and that the explanation of its shortcomings was to be found in the system of special committees. They argued furthermore that their position was supported by recent experience with isolated grand committees. The only satisfactory work which had been done was, they asserted, to be attributed to such committees. The opponents of the grand standing committees were not inclined to deny this experience. Their answer was that the *règlement* made possible the use of grand committees where their employment might seem desirable but that there was no reason to introduce into the *règlement* a complete system of grand standing committees. Likewise, opponents of the grand standing committees were not unwilling to admit that existing parliamentary procedure was in need of reform. At the same time, they were not prepared to agree that the method proposed was what was imperatively needed.

Advocates of a system of grand committees repeated in debate arguments which had been set out in the several proposals. As organs of

¹⁸ *Tableau des partis en France* (Paris, 1930), p. 57.

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study and work, grand committees, they asserted, would be characterized by the aptitude of their members. This would be made possible by specialization. Grand committees, it was argued, aroused the interest of members of the Chamber; whereas experience showed special committees to be incapable of this. In the grand committees, the several capacities of the members could be used to advantage and their special ability was afforded opportunity of cultivation and development. Thus, in every committee, certain outstanding members would be able to display their worth. Such members would form an élite from which future ministers could be drafted when needed. The opponents of the grand committees, on the other hand, were less convinced of the importance of specialization. In respect of the perennial controversy concerning the relative merits of expert and amateur in government, they were not inclined to look with great favor on a committee of experts. "I suggest," stated an opponent recruited from the medical profession,⁸⁰ "in order not to seem to attack a profession other than my own, that I should never advise this Assembly to set up a permanent committee composed of thirty physicians." Moreover, the opponents of the grand committees were far from being impressed by the idea of committees as training grounds for future ministers. They thought of grand committees rather as places of intrigue which would develop rivals who would divide the responsibility of Ministers and plot their downfall.

As had been anticipated by the advocates of grand committees and as had been manifested in the report of the committee on the *règlement*, the argument on which opponents of the grand committees principally relied in the debate was likelihood that grand standing committees would encroach on the proper sphere of the executive and even on the prerogatives of the Chamber as a whole. These opponents thus met institutional arguments with a constitutional argument. They insisted that the real question at issue was the maintenance or stultification of the parliamentary régime. Their employment of historical argument and their citation of Revolutionary experience were intended primarily to support their prediction of the confusion of powers and to justify their fear of it. Their opponents were constrained to recognize this fear. In fact, advocates of the grand committees, in arguing that opinion was unanimous in condemning the system of special committees, had no alternative but to ask in public debate for an explanation of the continued employment of this system. The explanation, of course, was not difficult to find. "We are ever haunted," lamented one speaker, "by the memory

⁸⁰ Speech of M. Armand Després. See J. O., *loc. cit.*, 4 février, p. 180.

of the committees of the Convention." ⁴⁰ Advocates of the grand committees insisted, of course, that such fear was without real foundation. They argued, as the authors of the several resolutions had done, that annual election of the committees would obviate the dangers associated with permanence and that parallelism of committees and Ministries could be avoided and should therefore be no cause for worry. On the other hand, the speakers who opposed the establishment of grand committees were unable to take these arguments seriously. They argued that only a certain number of great public services existed and that any division of labor naturally resulted in an administrative organization corresponding in its broad outlines to these services. "In the presence of this inevitable organization," asserted one speaker, "if the Chamber creates a certain number of grand committees, which naturally will have to adopt for their studies and their labors a branch of the general administration of the country, fatally you will also arrive at the institution of committees approximately equal in number to the ministries. . . . I am convinced that the grand committees will not confine themselves within the spirit of specialization but that by the force of things they will make of politics what they will not be able to refrain from making of them." ⁴¹ The same speaker went on to maintain that the result could easily be foreseen. "I shall characterize it," he continued, ⁴² "in one word. You will have created a parliamentary organization made in the very image of the Government. And, gentlemen, from the instant that you have organized yourselves in such a manner as to resemble the Government too much, you will be led by a logical and inevitable force, by an irresistible tendency, to try to play its rôle. . . . Of two things one: either there will be conflict or else there will be subordination. This consequence is inevitable. . . . In our Constitution, indeed, action and responsibility are intimately bound one to the other; and they ought to belong to the Government. On the contrary, under the system which is proposed to you, the true influence and action will be on the side of the grand committees; and there will rest on the side of the Government only the responsibility. . . . The Government will, I fear, be often attacked either by them or by the men placed at their head. If it falls, there is a crisis; if it gives in, the spirit of our institutions is falsified. . . . Everything is a danger in a republican system which tends to diminish the legitimate force of the executive power,

⁴⁰ Speech of M. Henry Maret. See *ibid.*, 7 février, p. 204.

⁴¹ Speech of M. Francis Charmes. See *ibid.*, 5 février, p. 192.

⁴² *Ibid.*

that is the worst theory of despotism." ⁴⁶ The speaker who had defined parliamentary democracy suggested a different concept of Ministers. "They are leaders," he said, "but leaders who ought to follow the policy which universal suffrage has imposed on us and which we in our turn impose on them." ⁴⁶ The extreme attitude toward the traditional concept of parliamentary government was even more striking. A Deputy, for the first time in public discussion, admitted the arguments of the opponents of the grand committees in order to hold that the results predicted were not to be avoided but to be welcomed. The occasion was merely an interruption in the form of an exclamation. A speaker in opposition to the grand committees was arguing that "it is easy to see that these grand committees will singularly augment the power of the Chamber." ⁴⁷ The Deputy to whom reference has been made cried out at this point, "So much the better!" ⁴⁸ The opponent of the grand committees continued: "They will acquire a preponderating influence. They will even be more powerful than the ministers." The same Deputy again exclaimed, "So much the better!" The interruptions were in reality an omen. They were an indication to the opponents of the grand committees that their cause was likely to prove a losing one when they should find arrayed against them not only advocates of grand committees who disagreed with them but likewise many who agreed.

The opponents of the grand standing committees, in the course of the debate at this time, advanced two additional arguments in answer to the speakers who contended that grand committees were necessary for improvement in the process of law-making or desirable in the adaptation of parliamentary government toward a natural French form. The first argument was that a substantial degree of decentralization would be a more fundamental, a more beneficial, and a more effective remedy. With considerable powers devolved upon local authorities, the problem of an improved method of law-making, it was argued, would cease to be pressing, and a principal force working in the direction of subordination of the executive to the Legislature would be greatly lessened. On the other hand, the advocates of grand committees, by assuming that centralization was a fixed characteristic of French polity, were able to turn the argument in their own favor. Thus, one of them asserted: "We are a centralized country, in which the Chambers are obliged to legislate on all questions, from the highest and most general

⁴⁶ The quotation is from M. Ribot and was made by M. Thellier de Pontcheville (see Note 37).

⁴⁶ Speech of M. Maret (see Note 40).

⁴⁷ Speech of M. Thellier de Pontcheville (see Note 37).

⁴⁸ Interruption of M. Jules Maigre.

laws to authorizations for loans and communal tolls. Our order of the day is always overloaded and we have need of an instrument of work which will permit us to bring matters to a conclusion as rapidly as possible." ⁴⁹ The other argument was that the cure for French governmental ills was not a system of grand committees but the "natural organization of the political parties." ⁵⁰ An essential element of parliamentary government was at that time conceived by the opponents of the grand committees to be two well-defined political parties with definite programs, strong organization, and, above all, natural leaders. These speakers admitted that were France possessed of the reality of parliamentary government in this respect, the dangers of the proposed system would appear less serious. The whole trouble, it was said, consisted in conflict between the majority and the Ministers, when the latter ought really to be the natural leaders of the former.

The several speakers in the debate on the grand standing committees at this time made a certain limited use of argument based on comparative government. The comparisons made were drawn from the experience of the Paris Municipal Council, from that of the General Councils of the Departments, and from that of England and the United States.

The example of the Paris Council was cited in opposition to the proposed system of grand committees. A member of the important metropolitan assembly expressed an adverse judgment of the five grand committees of the city council,⁵¹ whose function consisted in considering such measures as might be submitted to the council by the Prefect. "Slowly but surely," he said, "they have entirely substituted themselves for the heads of the administrative services, and, in the end, they have established themselves in the place of the Prefect of the Seine, who at the present time is no longer, allow me to say so, but a figure-head." These committees, he continued, though possessed of the best intentions and composed of men of great special competency, were none the less not long in forming coteries. In these circumstances, the minority was of little power; and the members of the majority had been able to distribute among themselves the five administrative services "like five fiefs." The advocates of the grand committees admitted the essential accuracy of this account of the committees of the Paris Council. They did not deny their "incursions into the political domain." On the other hand, they maintained that these committees did a great quantity of

⁴⁹ Speech of M. Émile Jamais. See J. O., *loc. cit.*, 5 février, p. 196.

⁵⁰ Speech of M. Thellier de Pontcheville (see Note 37).

⁵¹ Speech of M. Armand Després (see Note 39).

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excellent work. In order to offset the example of the Paris committees, they cited the work of the Departmental Councils.

The opponents of the grand committees not only answered that the General Councils met each year in but two sessions of a week and a fortnight respectively; but they asserted that even so the evil tendencies of standing committees were observable. "I have had the honor," said a speaker, "of being President of the General Council of my Department for seven years; and every time that a serious proposal presenting an important matter has come upon the order of the day, those interested have requested a special committee in order to escape the sure death dealt out by the permanent committees."⁵²

Some slight reference was made by both sides to the experience of the English House of Commons, which was recognized to be, in the phraseology of Thiers, "the model parliament." An opponent of the grand committees referred to an absence in England of committees similar to those proposed at this time in France.⁵³ An advocate cited in reply Mr. Gladstone's support of standing committees in 1882 and the reestablishment of such committees in 1888.⁵⁴ The same speaker gave an account of the working of the Committee of Selection in the House of Commons as evidence of the fact that in England the membership of specialists in committees was not feared.

A speaker opposed to the establishment of a system of grand committees asserted that the example of the standing committees of the Congress of the United States was not reassuring.⁵⁵ Owing to the more rigid separation of powers in the United States, interference by these committees, he stated, was perhaps with the Houses themselves rather than with the executive. The result, however, he insisted, was none the less regrettable. He cited a picture of the situation which had recently been drawn in a magazine article. "The American government," it ran, "is that in which there is less responsibility than in the rest of the entire world. Everything is done between four or five persons, mysteriously, silently. There is no government in the world where occult power is so great, and this power is exercised in the committees and by the committees." If the United States had a great and free government, the speaker continued, it was in spite of this system of committees, not because of it, and it would seem the height of folly for a foreign government to attempt to import an essential part of the governmental structure of another country, especially a bad part, without importing the whole.

⁵² Speech of M. Antonin Proust. See J. O., *loc. cit.*, 7 février, p. 204.

⁵³ Speech of M. Francis Charmes (see Note 41).

⁵⁴ Speech of M. François Deloncle. See J. O., *loc. cit.*, p. 206.

⁵⁵ Speech of M. Francis Charmes (see Note 41).

When the general discussion had been terminated in the Chamber of Deputies at this time, the Chamber passed to the reading of the articles of a measure brought in by the committee on the *règlement*. The issue of the grand committees was joined through the introduction of an amendment to the first article suggested by the committee. This amendment proposed the establishment of those grand committees which had been mentioned in one of the proposals adversely reported by the committee on the *règlement*. A close vote in the Chamber had been foreshadowed by a narrow majority in the committee on the *règlement*; and the counting of the ballots showed that the Chamber had failed to adopt the principle of grand standing committees by a vote of 203 to 285.⁵⁶ This vote brought to an end, so far as the fifth legislature was concerned, the efforts to establish in the Chamber of Deputies a system of grand standing committees. At the same time, that the opposition of the Chamber was to a system and not to grand committees as such was demonstrated by the fact that on January 30, a fortnight before the opening of the debate on the introduction of a system of grand committees into the *règlement*, the Chamber, by a vote of 415 to 38, adopted the following resolution: "There shall be named a general committee on customs, charged with taking decisions respecting all bills which the Chamber shall refer to it."⁵⁷

Grand Committees before the Chamber, 1894

The advocates of grand committees renewed their efforts in the Chamber of Deputies at the beginning of the next legislature. At this time, numerous resolutions were introduced into the Chamber with a view to effecting changes of one sort or another in the *règlement*. Of these resolutions, the two most important each proposed the establishment of a system of grand standing committees.⁵⁸ The two proposals, both of which had been made at the beginning of the previous legislature, were for the most part identical.

A committee on the *règlement* was named by the Chamber on January 15, 1894.⁵⁹ Its mandate required it to make a study of all proposals tending to modify the *règlement*. Four months later, a report on the establishment of a system of grand standing committees was brought

⁵⁶ See J. O., *loc. cit.*, p. 208.

⁵⁷ *Ibid.*, 21 janvier, p. 21. The committee was to be composed of fifty-five members.

⁵⁸ The first was introduced by M. Maret and some of his colleagues. See J. O., 1894, Docs. Ch., S. O., no. 280 (20 janvier), pp. 72-73. The second was the proposal of M. Georges Graux. See *ibid.*, no. 286 (20 janvier), pp. 78-81.

⁵⁹ See *ibid.*, Débs. Ch., 16 janvier, p. 14. For the composition of the committee of eleven members, see *ibid.*, Docs. Ch., S. O., no. 629 (17 mai), p. 815.

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before the Chamber by the committee on the *règlement*.⁶⁰ Within the ensuing month, the debate and voting took place.⁶¹ On this occasion, the system of grand committees had the benefit of a favorable report from the committee on the *règlement*,—in fact, the report was entrusted to the author of one of the proposals.⁶²

The report was comparatively brief. "The end sought by the authors of the two proposals," it ran, "was the same. It was to simplify the method of work and to permit all Deputies to take part in this work by dividing them into committees according to their abilities and their choice and not as at present according to the whim of chance or extraneous considerations." The faults of the existing system, the report continued, could be assumed to be known by all. Only one or two particular considerations, therefore, needed to be stressed. The principal of these was the annual election of the proposed grand committees. "Annual renewal," the report went on, "offers the double advantage of not confining each Deputy within the same committee for the whole duration of the legislature and of not giving to these committees that omnipotence of former committees, disturbing to the executive power, the fear of which has alone, up until the present day, prevented the adoption of our proposal." A system of fifteen grand committees was suggested.

This proposal of the committee on the *règlement* appeared to have a fair chance of success when it came before the Chamber for discussion in the second week of June.⁶³ In the course of the debate, most of the speeches dealt only with particular considerations, especially with the method of selection for the proposed committees. However, the committee on the *règlement* insisted that the principle of grand committees should first be accepted or rejected. With a view to this, a vote was taken. Though the existing grand committees in the Chamber of Deputies had increased in number since the defeat in 1890 of a similar

⁶⁰ The report was that cited in Note 59.

⁶¹ See J. O., *loc. cit.*, Débts. Ch., 12 juin, pp. 974-986; 13 juin, pp. 995-999.

⁶² M. Maret. The official reporter was M. Bertrand; but the report was little more than a compilation of several special reports. The committee had intended to report separately each of the matters which had been referred to it; but the Chamber had disapproved this plan, and M. Bertrand's report contained, accordingly, eight special reports, to which were appended a few general remarks. Cf. the report itself, cited in Note 59.

⁶³ Meanwhile, in March, a long debate had been held in the Chamber on the necessity and desirability of constitutional revision. Several of the remarks uttered at this time by M. Deschanel were frequently quoted on later occasions by the advocates of the grand committees. "It must be recognized," he said, "that our *règlement* appears too often combined in such a way as to prevent our attaining any result. It is an old and slow piece of machinery; it is—what is the word I want?—the Marly machine." (The reference is to a famous hydraulic machine constructed in the reign of Louis XIV for pumping water from the Seine to Versailles.) Cf. J. O., *loc. cit.*, Débts. Ch., 13 mars, pp. 492-507.

proposal, the principle of the grand committees was again in 1894 rejected by a small majority, the vote standing 221 to 286.⁶⁴

Grand Committees before the Chamber, 1898

By the beginning of the seventh legislature in 1898, the movement in favor of grand standing committees had grown so strong that establishment of the system seemed assured of success. Only a sort of accident prevented it.

In the last week of June, some sixteen proposals, all suggesting changes in the *règlement*, were brought before the Chamber of Deputies.⁶⁵ The most important of these was a resolution proposing the institution of a system of permanent grand committees.⁶⁶ For the study of the various proposals, the Chamber set up a committee on the *règlement*, composed of twenty-two members.⁶⁷ Meanwhile, in this same last week in June, the Chamber instituted five grand committees. In the first two weeks of July, three other grand committees were added to these five, the number thus just failing to equal the number of isolated grand committees which had been in existence during the sixth legislature.⁶⁸

A voluminous report by the committee on the *règlement* was presented to the Chamber on July 12, 1898.⁶⁹ "That which proves," it ran, "the existence of a movement of opinion favoring the revision of the *règlement* and especially the institution of grand committees is the ease with which the Chamber of 1898 creates these committees which formerly awakened so much distrust." The assumption could therefore be made, the report argued, that the Chamber would incorporate the principle of grand committees into its *règlement*. "The institution of grand committees," continued the report, "borrowed from the great assemblies of the Revolution, sanctioned by recent votes of the Chamber, put in harmony with such provisions of the *règlement* as are consecrated by experience, and working parallel with special committees,

⁶⁴ See *ibid.*, 12 juin, p. 980. The number of grand committees, as was mentioned at this time, had become nine.

⁶⁵ J. O., 1898, Débats, Ch., 24 juin, p. 1845.

⁶⁶ The author was M. Arthur Groussier. Cf. *ibid.*, 29 janvier, pp. 1882-1883.

⁶⁷ For its composition, see *ibid.*, Docs. Ch., S. O., no. 250 (12 juillet), p. 1491.

⁶⁸ See *ibid.* Cf. also Breton, *op. cit.*, p. 23, p. 243.

⁶⁹ It was the report cited in Note 67. Its author was M. Georges Graux. It is the most thorough and voluminous of all parliamentary documents dealing with grand committees. In its form as a separate publication, it consists of about 165 pages and contains an abundance of material on all matters pertaining to grand committees. It is many times quoted and cited in this study with respect to particular aspects of the French committee system.

will more fairly divide parliamentary work among all the members of the Chamber, will classify bills in a more methodical way, and will give to legislative work more unity and more fruitfulness."

References to and arguments from history were made in this report as on former occasions. As was not unnatural, the report interpreted history in such a way as to support its own case. In reality, the report pushed so far the apparent belief in proving everything by history that it fell into what was clearly an error. The error consisted in a misinterpretation of certain remarks contained in the classic work of M. Eugène Pierre on parliamentary law.⁷⁰ The passage in question was this: "Between committees of the past [*comités*] and committees of the present day [*commissions*] the difference is not purely nominal. A committee of the present day has referred to it only one or several definite bills. The mandate of a committee of the past was the study of a group of questions. The characteristic of its sphere of activity was to be ill defined." A simple reading merely of this passage must make it perfectly clear that M. Pierre was distinguishing between general and special committees. A reading of the context puts this beyond possible doubt. Yet the report interprets the passage as if the distinction were between the committees of the Revolutionary period and such grand committees as were at that time proposed. Thus with the fancied support of a great authority on French parliamentary law, the report claimed that "the vice of committees of the past is that they result in confusion of the powers; the advantage of grand committees is that they permit centralization of parliamentary work." On the other hand, whatever damage was done to the historical argument of the report by a manifest and almost inexplicable mistake was to some extent retrieved by the later identification of the essential nature of special committees with that of the proposed grand committees. "The phantom of the Revolutionary committees," ran the report, "has disappeared. . . . The grand parliamentary committees will have the same sphere of activity as the special committees; they will like them be charged with the elaboration of laws; they will have no other function; they will follow the same procedure; and they will in no circumstance have either the right or the possibility of exercising the least particle of the executive power."

At the same time, the report stated fairly the case of the opponents of grand standing committees and reproduced fully their adverse arguments. Moreover, for what seems to be the only time in the history of

⁷⁰ Cf. Pierre, *Traité de droit politique, électoral et parlementaire* (5^e éd., 2 vol., Paris, 1929), no. 737.

the controversy concerning the grand standing committees, this remarkably thorough report frankly admitted that the system proposed had other advocates than those who were convinced that the sole question was one of an improved method of work. This kind of advocacy, which had already appeared in the heat of a former debate and which was to be more definitely observed in subsequent debates, was clearly recognized in the report. "Without doubt," ran one of its passages, "some passionate admirers of the Convention may consider creation of the grand committees a first step toward the omnipotence of a single assembly; while others, partizans of a parliamentary republic, see in this creation only a better method of work."

Combination of these two classes of supporters seemed to assure adoption of the committees proposed. Without their more recent allies, the original supporters of grand committees could hardly have expected success. Nevertheless, the report maintained to the end the argument that the fears of the opponents of the grand committees and the expectations of the admirers of the Convention were without foundation. The report concluded: "Vainly demanded by certain Deputies for sixteen years, ever rejected as a provision of the *règlement*, the institution of grand committees has received in each legislature an existence in fact by the successive voting of numerous resolutions. There is a manifest contradiction between the rejection of the proposals tending to organize annual committees by stipulation of the *règlement* and the adoption of resolutions having as an object their creation. From this contradiction results disorder in the classification of parliamentary work. In order to cause this disorder to cease, the committee proposes to the Chamber the instituting of eleven annual grand committees. Essentially different from the Revolutionary committees, limited in their spheres of activity, having as a counterpoise the parallel operation of special committees, and elected for one year by the bureaux, the grand committees thus organized can neither reduce ministerial action to sterility by their encroachments nor menace by their omnipotence the executive power."

Debate on the proposal of the committee on the *règlement* began in the Chamber of Deputies on November 15.⁷¹ Though the benefit of a declaration of urgency was refused to the report, no speakers presented themselves for the general discussion. As a result, the Chamber passed immediately to the reading of the articles. Following the procedure which had been adopted in 1894, the committee reporter interrupted a discussion of several amendments in order to suggest that the principle of grand committees ought first to be voted. This was done by acclaim.

⁷¹ See J. O., *loc. cit.*, Débs. Ch., 16 novembre, pp. 2214-2223.

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"There is no opposition," asked the President of the Chamber, "to the principle of grand committees?" There were cries on all sides of "No, no!" "This principle is adopted."⁷²

With the establishment of a system of grand committees thus apparently assured, the committee on the *règlement* gave way to the opinion favoring the permanence of the grand committees; and the Chamber decided that their duration should be the same as that of the legislature. There was less agreement, however, on the number and nomenclature of the committees. The committee on the *règlement* was compelled to accept a suggestion that this question be recommitted to itself for further study. A fortnight later the committee was ready once more for public discussion.⁷³ Meanwhile, several grand committees, in addition to those already established, had been set up by the Chamber during the period succeeding the first day of the debate. The committee on the *règlement* had therefore only to suggest a list of those committees already in existence, with several additions calculated to give order and method to the whole. According to this plan, the complete list was to be introduced into the *règlement*. This suggestion was accorded the benefit of a declaration of urgency, and the discussion began. Several amendments were introduced. Finally, after some of these had been adopted and others rejected, the Chamber voted an amendment, introduced during the sitting, which stipulated that all members of the Chamber who should not be elected to membership on one of the committees should be distributed equally among the several committees. The consequences of this remarkable and unexpected amendment not having been envisaged, the committee on the *règlement*, on account of evident difficulties of practical application, demanded that the resolution be recommitted to it.⁷⁴ Thus, once more a system of grand committees failed to find its way into the *règlement* of the Chamber.

Grand Committee System Established in the Chamber, 1902

It was in the first year of the eighth legislature that the system of grand committees at last became an integral part of the *règlement* of the Chamber of Deputies. On November 17, 1902, the Chamber by a vote of 351 to 179 decided in favor of the principle of grand committees.⁷⁵ This vote resulted in ultimate success.

⁷² J. O., *loc. cit.*, Débs. Ch., 16 novembre, p. 2215.

⁷³ See *ibid.*, 30 novembre, pp. 2317-2329.

⁷⁴ Cf. *ibid.*, p. 2329. The amendment was introduced during the sitting by M. Arthur Groussier.

⁷⁵ J. O., 1902, Débs. Ch., 18 novembre, p. 2624.

The initial events attendant on the attempt in the eighth legislature to establish a system of grand committees did not augur well for success. At the beginning of the first session, the President of the Chamber requested that any proposal looking to the establishment of such a system be postponed until after verification of the powers of the members. Finally, on June 16, a resolution proposing the creation of a system of sixteen grand committees was brought into the Chamber.⁷⁶ The resolution was accompanied by a request that it receive a hearing four days later. This, however, was not granted. Moreover, the cause of the grand committees suffered a definite reverse when the Chamber adopted a motion in favor of indefinite postponement.⁷⁷ Nevertheless, several changes in the *règlement* having been suggested in the meantime, the question of grand committees was again called to the attention of the Chamber in July. At this time, a committee of initiative brought in a favorable summary report of several proposals concerning the *règlement*.⁷⁸ "The present *règlement* of the Chamber," ran the report, "contains several gaps and a certain number of provisions which in parliamentary practice are almost unanimously considered contrary to a good working organization of the Chamber and of its committees." The committee of initiative accordingly suggested that the proposals in question should be taken under consideration by the Chamber. Finally, in October, certain Deputies of the Left introduced a proposal that the Chamber establish a committee on associations and congregations and a committee on labor and social welfare, reserving the right to ask later for other grand committees.⁷⁹ Thereupon, the pending resolution which had proposed the creation of sixteen committees was temporarily withdrawn.

A week later, the debate on the more restricted proposal began.⁸⁰ The principal proposer pointed out briefly that the resolution was in no way contrary to the *règlement*. He contended that the logic of the committees proposed was easily established. As a result, the greater part of his speech dealt principally with the question of the method of selecting the committees proposed. After speeches by two other Deputies, a conservative member of the Chamber⁸¹ made a final eloquent appeal

⁷⁶ *Ibid.*, 17 juin, p. 1861. The leader of the movement on this occasion was the Socialist Deputy, M. Jules-Louis Breton.

⁷⁷ *Ibid.*

⁷⁸ For this report (by M. Cordot), see *ibid.*, Docs. Ch., S. O., no. 286 (10 juillet), p. 776.

⁷⁹ See *ibid.*, Débs. Ch., 17 octobre, p. 2361.

⁸⁰ For the debate here summarized and quoted from, see *ibid.*, 25 octobre, pp. 2480-2485.

⁸¹ M. Charles Benoist.

on constitutional grounds against the principle of grand committees. He objected to the fact that the advocates of grand committees cited as examples in their arguments drawn from comparative politics only the committees of England, the United States, and Germany. Only one of these countries, he reminded his listeners, was a European country. In reality, he continued, a system of special committees elected in the bureaux was found in nearly all European countries. Moreover, in England, he pointed out, select committees differed from the committees proposed in France; and yet he cited an English writer ⁸² as authority for the fact that a tendency existed for even these committees to take from the Government that which rightly belonged to it and to give it to the House of Commons. At this point in the speech, the attitude of the Left toward the traditional conception of the parliamentary system manifested itself in a manner which was rendered especially significant by the general internal political situation in France at the time and by the nature of the proposal which was pending before the Chamber. The speaker opposing the grand committees was asserting that the tendency noted by the British writer whom he had quoted was a grave danger. Thereupon, a Deputy ⁸³ interrupted to exclaim, "On the contrary, that is the advantage!" With this the speaker could not agree, though he was constrained to admit that others might be willing to do so. "This is due," he said, "to the fact that we do not conceive of the parliamentary system in the same way." He held that what might seem to some a small matter might very possibly bring France far from parliamentary government. "One day or another," he continued, "sooner or later, I know not when, you will come to propose to us—it is the depth to which you will fatally fall—you do not wish it at present, but you will be carried away by the weight of your own policy—you will come and propose to us the establishment of as many grand committees as there are ministries." Another interruption occurred at this point. "It is an excellent system," asserted a Deputy, ⁸⁴ "it is even the best and the most liberal." Another ⁸⁵ exclaimed: "It is the sovereign people! It is universal suffrage!" The speaker retorted: "No! It is Parliament become sovereign. The day on which you shall have got that, you will to that extent have brought nearer the system of government by a convention. But you will to the same extent have got away from the parliamentary system. . . . The day on which you shall have done that, you will have displaced the axis of our institutions, displaced the very

⁸² Mr. Todd.

⁸³ M. Dejeante.

⁸⁴ M. Edward Lepelletier.

⁸⁵ M. Dejeante.

seal of government. Already it is scarcely where it appears to be. When some one comes to speak to you, even theoretically, of the old fiction of a responsible Ministry, reflect that in the present state of affairs this is no longer anything but a vain fiction. . . . With the system which is proposed to you, you will have greater and greater confusion of the executive and the legislature. There will be no more executive at all—there is already no longer very much—or, more exactly, the whole executive will be transposed and transported into the legislature; and then you will have the government in the Chamber,—or rather the government in the majority of the Chamber. . . . You will have cut the Chamber as well as the country into two parts, one half which acts and the other half which supports. Then without doubt you will have that absolute democracy of which you dream—or rather you will have absolute parliamentarism. . . . What we cannot admit, since it is neither just nor possible, is that under cover of a proposal for modification of the *règlement* a veritable constitutional revision be made, that a real change of system be arrived at, and that of the parliamentary system, it being emptied of all reality, only the shell be left.”

This was the last real word in opposition to the principle of grand committees. The first of the committees proposed in the resolution was established. The other, for reasons which need not be here set out, was rejected by the Chamber. Immediately the author of the resolution suggesting the creation of a system of sixteen grand committees asked and received the benefit of a declaration of urgency for his proposal.⁸⁶ The committee on the *règlement* to which the proposal was referred named its author as its reporter; and the report was placed before the Chamber less than a month later.⁸⁷ This report held that the superiority of the grand committees was established. Its argument was in a familiar strain. “The vague resemblance,” it ran, “of the committees of the Convention and of permanent grand committees aroused for a long time against the latter the harsh criticism of certain parliamentarians frightened by the memory of Revolutionary times. But their incontestable superiority has now imposed them upon us; and, without having been created by the *règlement*, they have been working regularly to the general satisfaction for several legislatures, during which time they have constantly had a tendency to develop and to become the essential organization of Parliament.”

⁸⁶ See J. O., *loc. cit.*, pp. 2485-2487.

⁸⁷ For the proposal, see *ibid.*, Docs. Ch., S. E., no. 380 (24 octobre), p. 173. For the report of M. Breton, see *ibid.*, no. 438 (11 novembre), pp. 269-273. The composition of the committee of eleven members on the *règlement* is given in a note on the first page of the report.

A week later, the report of the committee on the *règlement* came before the Chamber for public discussion.⁸⁸ Though a voice was briefly raised once more in opposition, an amendment proposing a distinction between political and non-political committees was swept aside; and the Chamber voted, by the majority already mentioned, to establish by modification of the *règlement* a regular system of permanent grand committees.

The Senate and Grand Committees

A system of grand committees was not established in the Senate until 1921. Previous to this no serious efforts had been made in this direction in the Upper Chamber parallel with those in the Chamber of Deputies. Consequently, little controversy had taken place. It is true that after the establishment of the finance committee in 1876 the Senate set up successively a committee on railways in 1882, a committee on the army in 1891, a committee on the navy in 1891, and a committee on customs in 1897.⁸⁹ However, these bodies were merely isolated examples of committees with a general jurisdiction; and the Senate had no intention that they should form part of a complete system. This intention was affirmed in 1911 on an occasion when a resolution was adopted stipulating that the committees existing in the Senate should be made uniform in size.⁹⁰ "This does not mean," said the reporter of the committee on the *règlement* at this time, "that we wish to copy the system of the Chamber with its eighteen grand committees. We wish to keep the system which is ours. There are five grand committees in the Senate which we may regard as very important. . . . We wish to conserve for them their own character."⁹¹

During the next decade, a few committees were added to these five, notably a committee on foreign affairs at the time of the World War in 1915.⁹² Finally, at the end of 1920, several proposals were made with the object of setting up a regular system of grand standing committees.⁹³ "These proposals," stated the report of the committee on the

⁸⁸ For the debate, see J. O., *loc. cit.*, Débs. Ch., 18 novembre, pp. 2618-2638. Cf. Note 75.

⁸⁹ Cf. Moreau et Delpech, *Les Règlements des assemblées législatives* (2 vol., Paris, 1906-1907), t. II, pp. 192-193 n.

⁹⁰ Cf. J. O., 1911, Docs. Sén., S. O., no. 194 (14 juin), p. 839.

⁹¹ *Ibid.*, Débs. Sén., 8 décembre, p. 1504.

⁹² See J. O., 1915, Débs. Sén., 4 février, p. 26.

⁹³ The proposals are dealt with in the report of M. Cazelles on some sixteen resolutions suggesting alteration of the *règlement*. For the report, see J. O., 1920, Docs. Sén., S. E., no. 484 (19 novembre), pp. 870 *et seq.*

règlement, "essentially put the question whether or not it is desirable to develop a system of permanent grand committees instead of maintaining the present system, which involves only a matter of several grand committees, each having a general jurisdiction in affairs which concern it, and a large number of special committees in principle instituted for the examination of a definite question." The committee had decided in favor of the first alternative. "The surest guide," continued the report, "is experience. It has already demonstrated that the institution of several grand committees . . . has offered certain advantages without being attended by the disadvantages which have been suggested to involve serious risk."

Debate began in the Senate about a week after the committee on the règlement had brought in its report.⁹⁴ The committee reporter spoke in a strain similar to that of the report. The grand committees proposed were, he asserted, "all inspired by the general considerations that the Senate is better suited to grand committees than to special committees and that for this reason it is desirable to extend the first system and to limit the application of the second."

The conclusion of the debate took place in January of 1921.⁹⁵ This discussion involved no controversy on a scale comparable with that which had been known in the Chamber. Some attention was given to the matter of expense involved in the creation and operation of grand committees. No thought appears to have been devoted to this question in the Chamber of Deputies. In the Senate, the estimate was made that the initial cost of the grand committees would be 360,000 francs. This sum would include such items as heat, light, a lift, painting, and general upkeep of such quarters as would be necessary for the new committees. Furthermore, the old question of the parallelism of the committees and the Ministries came in for some discussion. A somewhat new turn was given to the argument by a Senator⁹⁶ who feared that the organization of the Senate would suffer from parallelism more than would the working of the Ministries. "We are doing something to-day," he said, "which has nothing to do with the organization of the ministries. . . . We are here to respect logic and justice, without regard for ministerial organization, which does not always respect them."

The system of grand committees was adopted in the Senate on January 18, 1921.

⁹⁴ See *ibid.*, Débs. Sén., 26 novembre, pp. 1806-1813.

⁹⁵ J. O., 1921, Débs. Sén., 19 janvier, pp. 20-34.

⁹⁶ M. Tarron.

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Grand standing committees are at present an integral part of the organization of the parliamentary system in France. Opposition to them was based on a conception of parliamentary government which was English. The system which was destined to establish itself in France was a French system. Therefore, the same causes which brought about the evolution of a variant of parliamentary government adapted to French needs and conditions were in general responsible for the establishment of a system of grand standing committees. Accordingly, the French committee system can be intelligently studied and intelligently appraised only in the context of its close interrelationship with the French parliamentary system. In turn, the French parliamentary system is with conviction, though without marked enthusiasm, believed by the majority of the French people, with whom may be associated all the most authoritative French students of the science of government, to be in the circumstances the best possible system. This situation appears likely to prevail as long as parliamentary government continues to be regarded in France as synonymous with democracy. In a general way, then, a system of grand standing committees, the parliamentary form of government, and political democracy may be said to rest in France on a common basis and to possess a common destiny.

This offers a simple explanation of the fact that the French system of grand standing committees has since its definitive establishment in the Chamber of Deputies at the beginning of the present century been the object of adverse criticism and attack both within and outside Parliament. During the contemporary era, flare-ups of an anti-democratic character have become a commonplace in France. From the nature of the case, an anti-democratic movement is an anti-parliamentary movement. So long as France is more fortunate than some of her neighbors in avoiding the complete success of this movement, the anti-democratic and anti-parliamentary tendency, which can be expected to manifest itself whenever critical circumstances exist or are alleged to exist and whenever strong and direct action appears natural and desirable, will result in criticism and attacks.⁹⁷ The criticism and attacks will usually include the grand committees.

Since the French variant of parliamentary government normally receives its direction from a majority which leans toward the Left, championship of the system falls more naturally to the lot of the Left. By the same token, when circumstances suggest more than the usual ar-

⁹⁷ Reference may be made to the writer's article, "The Antiparliamentary Movement in France," *American Political Science Review*, Vol. XXI, August, 1927, pp. 552 *et seq.*

ticulate criticism of alleged shortcomings of the régime, the source of attacks is normally "moderate" opinion. In respect of the system of grand standing committees, this means that with not very much exception, criticism emanates from "moderate" sources and that defense is a function of "advanced" opinion. This situation is to be observed on several kinds of occasion.

When the Chamber of Deputies convenes in France for a new regular session, according to a provision of the règlement⁹⁸ the oldest member present temporarily takes the chair as President, until the permanent President of the Chamber can be selected. Though the will of the majority can and does determine the member who is regularly to preside over the Chamber, no majority is possessed of the power to regulate the identity of the eldest member in the Chamber. Consequently, the temporary President, if he happens to belong to the minority, may with especial relish speak his mind on the occasion of assuming the chair. Such an occasion occurred in the Chamber at the beginning of the third regular session of the ninth legislature in 1908. The temporary President, with the privilege of age and a satisfaction born of the political situation of the time, indulged in some plain speaking.⁹⁹ "The masters of the political situation," he said, "in order to assure to themselves permanency of power, have changed the règlement of the Chamber of Deputies. They have created grand committees, veritable instruments of sway, which last throughout the legislature and constitute in the whole of political affairs a sort of aristocracy altogether contrary to the republican spirit. . . . Why do certain misgivings creep into the minds of a great number of citizens of the best intentions? It is because Parliament can do everything it wants to, and it does it. . . . To maintain under a republic that the executive power ought to be dependent on the legislative power, when the legislative power is, so to speak, the executive, is assuredly the indication of troubled minds." When the permanent President took the chair two days later, he was not able to refrain from comment on these remarks.¹⁰⁰ He outlined the status of pending legislation and spoke of certain bills calculated to introduce much needed reforms. "Several," he said, "are at the report stage and are going to be put on your order of the day,—a manifest sign of the laborious and fruitful activity of your committees. Unfortunate committees! (Smiles.) They may constitute an aristocracy, but the bills which they present to us are precisely those which democracy awaits

⁹⁸ Art. 7. Cf. Pierre, *op. cit.*, no. 407.

⁹⁹ M. Louis Passy. For his speech, see J. O., 1908, Débats, Ch., 15 janvier, p. 1.

¹⁰⁰ M. Henri Brisson. For his remarks, see *ibid.*, 17 janvier, p. 5.

and acclaims. (Repeated applause.)" This favorable appraisal of the system of grand committees, which may be regarded as typical of the attitude of the majority, had already been put on record in strong terms. Five years earlier, during the first year following that in which the system of grand committees had finally been accepted in the Chamber of Deputies, the reporter of the committee on the *règlement* who had been successful where others had failed in securing the definitive establishment of the grand committees, had occasion to pass judgment on the system.¹⁰¹ "One may say," he wrote, "that this legislature has already done more than all its predecessors for the methodical organization of parliamentary work. There is no need to insist in order to establish the capital importance of the institution by the *règlement* of permanent grand committees, which had not been accomplished up till that time. . . . The institution by the *règlement* of the permanent grand committees, recently voted by the Chamber, constitutes a real progress, which will spare succeeding legislatures the waverings and delays which we have all deplored."

At the beginning of the tenth legislature in 1910, when the majority of the Chamber altered the method for choosing members of the grand committees, an occasion was offered for dealing in debate with the system of committees as a whole. More than passing interest attaches, in the circumstances, to the attitude of a veteran churchman expressed in an impassioned and eloquent speech.¹⁰² In the course of the debate he said: "I have been here since 1893; and if our President could leave the chair for an instant and come down to the tribune, I should invoke his testimony. He would tell us that the oldest *règlements* were the best and that the whole evil of which complaint is made dates from 1902, the year in which the *règlement* was changed." The fiery abbé not only opposed the proposed system of selection; he held that there were grounds for criticizing the very existence of the grand committees. He even introduced a proposal for returning to the old system, a proposal which was effectively disposed of by being referred to the committee on the *règlement*. "You look for a remedy for the parliamentary discomfort?" he inquired. "You will not find it in proportional representation or elsewhere. The only remedy consists in applying the axe to the base of the tree and in destroying this vegetation of permanent committees." Another amendment, proposing that all the grand committees except those on the budget, the army, and the navy should be

¹⁰¹ For the appraisal of M. Breton, see his report in J. O., 1903, Docs. Ch., S. O., no. 637 (15 janvier), p. 4.

¹⁰² For the speech of the Abbé Lemire, see J. O., 1910, Débs. Ch., 2 juillet, pp. 2370 *et seq.*

suppressed, was also referred to the committee on the *règlement*. A member from the Right¹⁰³ assured the proposer that the amendment would find friends in the committee, for he himself had there advocated the suppression of most of the grand committees. However, such proposals, which were in a literal sense reactionary, were contrary to the general direction of development and to the natural attitude of the normal majority.¹⁰⁴

In the twelfth legislature, which assembled at the close of the World War, a Chamber of Deputies convened in which many new members appeared and in which the normal political axis was temporarily dislocated. A definite tendency in the direction of reaction toward the Right meant that the ground was laid for the success of "moderate" proposals. However, so far at least as the grand committees were concerned, this situation was in some degree offset by the effects of an abnormal political situation during the War.¹⁰⁵ In the result, the Chamber of Deputies was unable with any promptness to organize itself for work. The whole of the *règlement* of the Chamber was subjected to a minute reëxamination. A newly elected member, a distinguished professor of constitutional law, was appointed reporter by the committee on the *règlement*.¹⁰⁶ The committee gave evidences of disagreement and uncertainty. In its midst, the old controversy was resumed with respect to parallelism of the grand committees and the Ministries. The principle was warmly debated. It was adopted by a large majority during an afternoon sitting and, by a complete reversal, was rejected the next morning. In the latter decision the Chamber supported the committee on the *règlement*, thereby showing that the "moderate" majority was still aware of the old cleavage of opinion concerning the relationship of grand committees to the parliamentary system.¹⁰⁷ The prevailing opinion was expressed by the committee reporter in terms which echoed sounds familiar in earlier controversy. "Parallelism appeared to your committee," he wrote, "to be the permanent organization of a conflict which could not be resolved except by the definite effacement, to the great injury of the country, of the responsible Government by the irresponsible committee. We cannot by provisions of the *règlement* suppress the parliamentary system established by the Constitution, in order to ar-

¹⁰³ M. Louis Marin.

¹⁰⁴ As a matter of fact, the number of grand committees was increased three days later by the creation of a committee on mines of forty-four members. Cf. J. O., *ibid.*, 5 juillet, p. 2401.

¹⁰⁵ Cf. Ch. VII, *infra*.

¹⁰⁶ M. Joseph-Barthélemy. For his report, see J. O., 1920, Docs. Ch., S. O., no. 228 (23 janvier), p. 109. Cf. also *ibid.*, Débs. Ch., 24 janvier, pp. 50-54.

¹⁰⁷ Cf. *ibid.*, 28 janvier, p. 68.

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rive at a deformed imitation of government by a convention." ¹⁰⁸

This authoritative tone of moderate opinion was only a temporary expression of the political situation. The victory of opposition to parallelism of committees and Ministries was more apparent than real. At the present time, the organization of the grand committees approximates very closely to the organization of the ministerial departments.¹⁰⁹ Thus, the system of grand standing committees as it exists in France at the present time may be said to settle this one of the two particular points constantly at issue during the long controversy concerning grand committees. The other point was of course that of the duration of the committees. At present, French grand committees, though chosen annually, are not in any real sense annual committees.¹¹⁰ Their duration is for all practical purposes what was called by both sides to the controversy *permanent*. Thus, in these particulars, the predictions of the opponents of the grand committees have been fulfilled. Curiously enough, therefore, the very forces, apparently fatalistic, which overcame opposition to the grand committees proved that opposition to be correct. How serious are the consequences of this accurate prediction will be judged differently according to the point of view. At all events, the matter cannot be judged intelligently except in terms of the actual working of the grand committees.

¹⁰⁸ See Note 106.

¹⁰⁹ Ch. IV, *infra*.

¹¹⁰ *Ibid*.

CHAPTER IV

THE SYSTEM OF GRAND STANDING COMMITTEES

Number of Committees

IN the Chamber of Deputies, there are at present twenty grand committees.¹ Their designations are these:

- (1) On general, departmental, and communal administration;
- (2) on foreign affairs;
- (3) on aviation;
- (4) on agriculture;
- (5) on Algeria, the colonies, and the protectorates;
- (6) on Alsace-Lorraine;
- (7) on the army;
- (8) on social insurance and welfare;
- (9) on commerce and industry;
- (10) on closed accounts and economies;
- (11) on customs and commercial agreements;
- (12) on instruction and the fine arts;
- (13) on finance;
- (14) on hygiene;
- (15) on civil and criminal legislation;
- (16) on the merchant marine;
- (17) on the navy (military marine);
- (18) on mines and motor force;
- (19) on labor; and
- (20) on public works and means of communication.

There are listed in the *règlement* of the Senate eleven grand committees.² In this number, however, the committee on finance is not, as in the Chamber of Deputies, included. This important committee, which in the Senate is placed on a slightly different plane from the other grand committees, brings the total number up to twelve. The eleven grand committees listed are these:

- (1) On the army;
- (2) on the navy;

¹ *Règlement de la Chambre*, art. 11. The order of listing is alphabetical.

² *Règlement du Sénat*, art. 15.

- (3) on foreign affairs and on the general policy of protectorates;
- (4) on customs and trade agreements;
- (5) on public works;
- (6) on agriculture;
- (7) on education;
- (8) on hygiene, on public charity, and on social welfare and insurance;
- (9) on civil and criminal legislation;
- (10) on general, departmental, and communal administration; and
- (11) on commerce, industry, labor, and post-offices.

Four other committees in the Senate should in a definite sense be included with the grand standing committees and the committee on finance.³ Like the grand standing committees, they are chosen annually; but they differ from these committees and the committee on finance in being chosen in the bureaux rather than by the political groups of the Senate, and three of the four are smaller in size than the grand committees. The committees in question are the committee on aviation of thirty-six members; the committee on rivers and the committee on colonies, protectorates, and possessions, each of twenty-seven members; and the committee on Algeria of eighteen members. A proposal introduced into the Senate in 1930 suggesting that these committees should be incorporated into the list of grand committees in the règlement appears to have met with little favor.⁴

The règlements⁵ of course recognize the possibility that the Chambers may decide on the creation of one or more new committees at any time or abolish a committee already existing.

Before the system of grand committees was definitely established and while small special committees were still the rule, there was naturally no fixed number of committees. If the one or two annual committees and the several monthly committees in both Chambers be left out of consideration as exceptional, then there were theoretically as many special committees as there were measures taken under consideration. This, however, was of course never realized in practice. The number of special committees seems to have reached its highest point in the Chamber of Deputies in the sixth legislature, 1893-1898, when 184 committees were apparently created, exclusive of the above-mentioned exceptional committees.⁶ In the following legislature, 1898-

³ *Ibid.*, arts. 17, 17 bis.

⁴ Cf. J. O., 1930, Docs. Sén., S. E., no. 559 (20 novembre), p. 1252.

⁵ Chamber, Art. 15; Senate, Art. 21. Cf. Pierre, *Traité de droit politique, électoral et parlementaire* (5^e éd., 2 vol., Paris, 1929), nos. 728 et seq., 739.

⁶ M. Graux (J. O., 1898, Docs. Ch., S. O., no. 250 [12 juillet], p. 1491) erroneously

1902, the number of special committees appears to have fallen to seventy-one.⁷ In each of these legislatures more than a thousand measures were considered;⁸ hence the principle of a committee for every measure was far from being realized. This discrepancy is in some measure to be explained by the common practice of referring to a special committee previously set up one or more measures kindred to that for the study of which the committee was originally named. However, the real reason for the great difference between the number of measures considered and the number of special committees set up and for the marked falling-off in the number of these committees from 184 to seventy-one within a few years is to be found in the practice, which was becoming increasingly prevalent, of naming isolated grand committees for the study of a great number of measures of a similar nature.

Beginning with the budget committee in the Chamber of Deputies and the finance committee in the Senate, both of which were established in 1876, the Chambers set up by special resolution from time to time committees of a large number of members to which were to be referred all proposed measures that fell within a particular sphere.⁹ Of these grand committees set up before a system of such committees became the general rule, the maximum number seems to have existed in the Chamber of Deputies during the seventh legislature, 1898-1902. The number of grand standing committees during that period was sixteen. Eleven committees of this sort had existed during the previous legislature.

In the Senate the progress was slower. In 1911 only four annual committees with general jurisdiction existed, exclusive of the finance committee.¹⁰ With this committee included, there seem to have been in the Senate in 1920, on the eve of the adoption by that body of a definite system of grand committees, eleven such committees.¹¹

Since 1902 the number of grand committees in the Chamber has varied slightly from time to time. Thus, in 1902, when the principle of grand permanent committees was incorporated into the old *règlement*, the number of committees decided on was sixteen.¹² When the

gives the number as 330. The error is corrected and the number accurately given by M. Jules-Louis Breton (J. O., 1902, Docs. Ch., S. E., no. 438 [11 novembre], p. 269).

⁷ Established in the Breton Report (see Note 6).

⁸ The Graux and Breton Reports agree in this estimate.

⁹ See Chs. II, III, *supra*. The numbers are established in the Breton Report (see Note 6).

¹⁰ Cf. J. O., 1911, Débs. Sén., 8 décembre, p. 1504. Cf. also André J.-L. Breton, *Les Commissions et la réforme de la procédure parlementaire* (Paris, 1922), p. 245.

¹¹ Cf. J. O., 1921, Débs. Sén., 19 janvier, p. 20.

¹² Cf. J. O., 1902, Débs. Ch., 18 novembre, p. 2618.

new règlement of the Chamber was adopted in 1915, three additions were made, one of them being the budget committee, which had already existed but which had not been regarded as on the same plane with the other grand committees. This brought the number to nineteen.¹³ In 1920, a new list was adopted. On this occasion, several minor changes were made in the numbering, a few committees were omitted, and three new committees were added. At the time, the special committee of the new legislature set up to give special study to the règlement had endeavored to establish and to follow a policy of reducing the number of grand committees already in existence. However, the World War had made necessary the addition of such committees as that on the liberated regions and that on Alsace-Lorraine; and one or two committees were furthermore added during the public discussion. The final result was not a diminution in the number of grand committees but an increase to twenty.¹⁴ This remains at the present time the number of grand standing committees listed in the règlement. However, in March of 1932, the Chamber adopted without discussion, as being non-controversial, a provision which erased from the list of grand committees the committee on liberated regions and which added a committee on aviation.¹⁵ Thus, although the number of committees is the same, it has remained so through compensating change.

When the Senate in 1920-1921 was considering the establishment of a system of grand committees, the report of the committee on the règlement proposed fourteen committees, exclusive of the committee on finance. The Senate finally determined on a list of eleven.¹⁶ This list has been continued in the règlement down to the present day, though one committee has undergone a change of name.

The fact that the number of legislative committees in the French Chambers is considerably less than the number of standing committees in either House of the American Congress but much greater than the number of grand standing committees in the British House of Commons is to be explained by a variety of circumstances in the several countries. For present purposes, especial importance attaches to the definite and apparently inevitable tendency in France for a parallelism to be established between the ministerial departments and the grand committees. "As a general rule," it has been said, "each Ministry has

¹³ Cf. J. O., 1915, Débs. Ch., 5 février, p. 92.

¹⁴ Cf. J. O., 1920, Débs. Ch., 24 janvier, p. 51; 28 mai, p. 1652. The committees omitted were those on fiscal legislation and on post-offices and telegraphs. The committees added were those on Algeria, colonies, and protectorates, on Alsace-Lorraine, and on liberated regions.

¹⁵ Cf. J. O., 1932, Débs. Ch., 25 mars, p. 1702.

¹⁶ Cf. J. O., 1921, Débs. Sén., 19 janvier, p. 22.

a corresponding permanent committee, the sphere of which is modeled on its own activities."¹⁷ The extent of the parallelism may be observed in the following table:

<i>Ministers in the Daladier Government</i> ¹⁸ <i>January 30, 1934</i>	<i>Grand Committees in the Chamber of Deputies</i>
Foreign Affairs	Foreign Affairs
Justice	Civil and Criminal Jurisdiction
Interior	General, Departmental, and Communal Administration
Finance and Budget	Finance
National Defense and War	Army
Navy	Navy
Air	Aviation
Commerce	Commerce and Industry
Agriculture	Agriculture
Labor	Labor
Merchant Marine	Merchant Marine
Public Health	Hygiene
Post-Offices, Telephones, and Telegraphs	
National Education	Instruction and Fine Arts
Colonies (Finance beyond the Seas)	Algeria, Colonies, and Protectorates
Public Works	Public Works and Means of Communication
Pensions	Alsace-Lorraine
	Social Insurance and Welfare
	Closed Accounts and Economies
	Customs and Commercial Agreements
	Mines and Motor Force

Even superficially viewed, the parallelism is striking. It is in reality greater than it appears. At all events, the tendency is pronounced enough to appear alone sufficient, particularly in the Chamber of Deputies, to explain the list of grand committees. The phenomenon of parallelism has been often praised as well as inveighed against. In the first respect, numerous proposals have been made with a view to establishing an exact correspondence between the grand committees and the Ministries.¹⁹ Likewise, in 1930, two proposals were made in the Chamber, supported by long lists of advocates, suggesting the incorporation into the list of grand committees of a committee on post-offices, telephones, and tele-

¹⁷ Breton, *op. cit.*, p. 161.

¹⁸ This Ministry has been reproduced rather than that of M. Doumergue because the latter is from the nature of the case to be regarded as exceptional.

¹⁹ Cf. Ch. VII, *infra*.

graphs on what were argued to be the obvious grounds that a Ministry of that title had been recently established.²⁰ The same consideration manifestly explains the establishment in 1931 of the committee on aviation.²¹

Size of Committees

Each of the grand committees of the Chamber of Deputies is composed of forty-four members.²² In the Senate the number is thirty-six.²³ In the Chamber two grand committees may on rare occasions sit together, in which case there is exceptionally established a committee of eighty-eight;²⁴ but there is no special addition of members to a given grand committee, as in England, on the occasion of study of a particular question. The *règlements* of both Chambers provide for the right of particular individuals in certain circumstances to attend in a consultative capacity the meetings of the grand committees; but as such individuals have no vote, they do not in reality become even temporary members of the committees, and the size of the committees is not altered.

The size of grand committees in France has to some extent varied in practice. Furthermore, numerous proposals have suggested at times various numbers which have not proved acceptable to the Chambers. In the Chamber of Deputies, the number of members composing grand committees which has been most commonly found in practice is thirty-three, and this was for a long time considered in the Chamber the normal size of a grand committee. Thus, the first grand committee in the Chamber of Deputies, the budget committee established in 1876, was composed of thirty-three members.²⁵ Though there were occasionally set up in the Chamber standing committees of other multiples of eleven, thirty-three continued to be the most common number; and it was this number which was adopted in 1902 when the system of grand committees was first established by the Chamber. On July 1, 1910, the size of the grand committees was increased to forty-four members. This

²⁰ Cf. J. O., 1930, Docs. Ch., S. O., no. 3403 (6 juin), p. 852: "Gentlemen, the fact that the public service of post-offices and telegraphs has been set up as a ministry appears necessarily to involve the reestablishment of the committee which formerly operated for a number of years." Cf. also *ibid.*, no. 3677 (3 juillet), p. 1084: "Gentlemen, the creation of the ministry of post-offices and telegraphs and the development of this important public service have seemed to a large number of our colleagues to justify the reestablishment of the committee on post-offices and telegraphs."

²¹ Cf. *Règlement du Sénat*, art. 17 bis.

²² *Règlement de la Chambre*, art. 12.

²³ *Règlement du Sénat*, art. 19.

²⁴ *Règlement de la Chambre*, art. 31. Cf. Pierre, *op. cit.*, no. 751.

²⁵ See Ch. II, *supra*.

number was maintained by the Chamber at the time of the adoption of its new règlement in 1915.²⁶

In a resolution introduced in 1898, when the establishment of a system of grand committees was under discussion in the Chamber of Deputies, a proposal was made that the size of the committees should be determined by dividing the number of Deputies by the number of committees contemplated. This would have given nine committees of fifty-three members and two of fifty-two. The proposal was actually adopted by the Chamber; but when the effort to establish the system of grand committees failed through the action of the committee on the règlement in demanding that the whole question be recommitted to it, the article determining the number of members of the committees likewise became inapplicable.²⁷ Two weeks later, a proposal that the number of members for certain grand committees in the Chamber should be raised from thirty-three to forty-four was rejected by the very close vote of 265 to 232.²⁸ At the time of the establishment of the system of grand committees in the Chamber in 1902, the committee on the règlement proposed through its reporter a method of selection which would have resulted in committees of slightly varying sizes.²⁹ Committee members were to be proposed by sixteen Deputies; and as no Deputy could propose more than one member of each committee, the mathematical certainty existed that each committee would contain a maximum of thirty-six members. However, a committee was to be regarded as regularly constituted when twenty members had been designated for it. When this proposal had been rejected by the large majority of 412 to 149, the committee on the règlement supported the number thirty-three, as subsequently adopted. Since the time at which forty-four was adopted as the regular number of members, various proposals have been made both for increasing and for decreasing the size of the grand committees. Thus, a resolution introduced on December 2, 1921, suggested that eleven years of experience with grand committees of forty-four members had demonstrated the desirability of returning to committees of thirty-three.³⁰ The proposal expired in committee. The same fate was experienced by a proposal made in 1924 to reduce the size of the grand committees to twenty-two members.³¹ Proposals of this

²⁶ See J. O., 1902, Débs. Ch., 18 novembre, p. 2618; J. O., 1910, Débs. Ch., 2 juillet, p. 2369; J. O., 1915, Débs. Ch., 30 janvier, p. 72.

²⁷ See Ch. III, *supra*.

²⁸ See J. O., 1898, Débs. Ch., 30 novembre, p. 2319.

²⁹ For the proposal, consult the Breton Report (see Note 6). For the action of the Chamber, see J. O., 1902, Débs. Ch., 18 novembre, pp. 2632, 2635.

³⁰ See J. O., 1921, Docs. Ch., S. E., no. 3469 (2 décembre), p. 263.

³¹ See J. O., 1924, Docs. Ch., S. O., no. 298 (12 juillet), p. 1172.

sort are based on such arguments as that small attendance would be less serious or that Deputies would, by not being obliged to belong to more than one committee, be spared the difficulties of too frequent meetings. On the other hand, suggestions for increasing the size of the committees have been proposed in considerable number. A tendency in this direction was particularly strong during the World War, when several committees became actively occupied with highly momentous events and all Deputies desired to play a part.³² Proposals to add members to the grand committees in a consultative capacity are, as has just been said, not strictly speaking proposals for increasing the size of the grand committees. If any of the suggestions should be adopted that all members of the Chamber be considered members of the finance committee or of any other grand committee, presumably a committee of the whole house would result; hence such proposals are likewise not strictly speaking proposals for increasing the size of the grand committees. Definite proposals for establishing the committee of the whole house may still less claim to be concerned with the size of the grand committees.

In the Senate, the size of grand committees has undergone somewhat similar variation. The budget committee, which was after considerable controversy established in 1876, was composed of eighteen members.³³ Of five grand committees existing in the Senate in 1911, two were composed of twenty-seven members and three of eighteen. The variation was due to the fact that the committees had been set up at different times. A resolution was adopted at the end of that year which stipulated that the grand committees should be uniformly composed of twenty-seven members. This number was finally raised to thirty-six in 1920-1921, on the occasion of the establishment of a system of grand committees in the Senate.³⁴

In practice the number of committee members in both Chambers has always been a multiple of the number of bureaux. Great difficulty attaches in France to eliminating the idea that the normal method of recruiting committees consists of selection of one or more members in the bureaux. The retention of the numbers thirty-six and forty-four is to be explained partly in terms of this tradition and partly by the fact that, though the regular method of selecting the grand committees is no longer choice in the bureaux, the possibility still exists that they may be constituted in this manner.

³² Cf. Ch. VII, *infra*.

³³ See Ch. II, *supra*.

³⁴ For these details, see J. O., 1911, *Débs. Sén.*, 8 décembre, p. 1504, p. 1508; J. O., 1920, *Débs. Sén.*, 26 novembre, p. 1808.

Parliamentary opinion in France has not been at all times unanimous with respect to the most desirable size for committees. Consequently, a certain amount of controversy has on one or two occasions taken place. The question raised has usually been whether committees composed of three members from each bureau are sufficiently large. Thus, several able members of the Chamber of Deputies have contended that thirty-three should normally be considered the maximum size of committees and that this number should not lightly be increased. In 1898, a veteran parliamentarian and president of the committee on the *règlement*, on an occasion when the system of grand committees seemed certain of acceptance by the Chamber, entered the discussion to protest against a proposal that the committees should consist of over fifty members; and he predicted that exaggeration in the matter of the size of the committees would be "the reef" on which the system would be wrecked.⁸⁵ The argument supporting such a view is closely connected with the question of attendance at committee meetings. The argument, in so far as it relates to the size of committees, is comparatively simple. A keen student of matters relating to the *règlement* stated it in this way in 1902: ⁸⁶ "With respect to the number of committee members, there would be . . . grave disadvantages in raising it to too high a figure. Every one knows that committees which are too large do not work with ease. The majority of the members do not attend meetings, and a small minority prepares the work itself, sometimes only to see the fruits of its labor destroyed by the vote of certain members who had no part in it. The greater the size of the committee, the greater chance is there that this disadvantage will be realized." On the other hand, the contention may be made that a system of committees of thirty-three members, in greater measure than a system of committees of forty-four, precludes the probability that all Deputies will be members of a grand committee. In 1898, for example, a proposal for increasing the size of grand committees from thirty-three to forty-four members was rejected by a very small majority largely because of the contention that committees of forty-four were too large to work smoothly; but the reporter of the committee on the *règlement* admitted that with committees of thirty-three members every one could not hope for committee membership.⁸⁷ In 1910, support of a proposal that the size of

⁸⁵ For the occasion of this intervention of M. Ribot, see Ch. III, *supra*. Cf. also J. O., 1898, Débs. Ch., 16 novembre, p. 2221. M. André Breton (*op. cit.*, p. 144) misquotes M. Ribot in this respect and seems to be in error with regard to the size of the committees proposed.

⁸⁶ See Breton Report (Note 6).

⁸⁷ For the vote and the attitude of M. Georges Graux, see J. O., 1898, Débs. Ch., 30 novembre, p. 2319.

committees be increased to forty-four was again offered on the grounds that no one ought to be deprived of the opportunity of serving on at least one grand committee.³⁸ This view prevailed. Some interest, however, attaches to the fact that the resolution proposed at the end of 1921,³⁹ advocating a return to committees of thirty-three members, revived the argument which had been advanced in 1902. "The number of the members of each committee, forty-four, is too high," say the authors of the resolution. "No Deputy has the feeling that he assumes responsibility for the work of the committee to which he belongs; each member, having only one forty-fourth of the responsibility, considers that neither his presence nor his effort is indispensable to the working of the committee." Hence, in the same year that the Senate adopted a figure corresponding to that contained in the *règlement* of the Chamber of Deputies, a proposal was made in the Chamber to return to a figure corresponding to that formerly accepted by the Senate.

Duration of Committees

A provision of the *règlement* of the Chamber of Deputies⁴⁰ stipulates that the grand standing committees shall be named "at the beginning of each legislature and each year in the month of June." A corresponding provision of the *règlement* of the Senate⁴¹ stipulates that its grand committees shall be named "at the beginning of each ordinary session." Accordingly, at present the members of the grand committees in both Chambers are normally elected, as the *règlement* of the Senate states specifically, "for a period of one year." In both Chambers, likewise, members of committees are reëligible. This is well understood, though the *règlement* of each Chamber is silent on the subject. In practice, re-election is, of course, the general rule.⁴²

The provision of the *règlement* of the Chamber of Deputies stipulating that the grand committees shall be elected every June was adopted in 1932.⁴³ It was passed with a view to solving a simple problem. General elections of the members of the Chamber of Deputies normally take place in the spring or early summer. In accordance with the Constitution, regular sessions of Parliament begin in January. Consequently,

³⁸ Cf. J. O., 1910, Débs. Ch., 1^{er} juillet (annexe no. 222), p. 2360; 2 juillet, pp. 2371, 2373.

³⁹ For the proposal, see Note 30.

⁴⁰ Art. 11.

⁴¹ Art. 15.

⁴² Cf. Breton, *op. cit.*, p. 189.

⁴³ See J. O., 1932, Débs. Ch., 25 mars, p. 1702. Cf. J. O., 1931, Docs. Ch., S. O., no. 5487 (3 juillet), p. 1188.

during the time that the grand committees were chosen at the beginning of a legislature and of every regular session, as they were until 1923, the result was that in an election year the grand committees were scarcely chosen when the life of the Chamber came to an end in anticipation of the electoral period. The effort to solve this problem in 1923 consisted of a provision, adopted without debate, stipulating that the grand committees chosen in the year before an election year should continue until the end of the legislature, that is to say, for a period slightly longer than a year.⁴⁴ The provision of 1932, adopted without discussion, represents only a slight improvement over the 1923 provision. Election of the committees in June will normally ensure an annual duration.

In the Senate, though the committee on finance and the four standing committees chosen in the bureaux are alike in being provided for in the règlement but not considered grand committees, the committee on finance differs from the others in not being technically an annual committee. The provision of the Senate règlement⁴⁵ in the matter is couched in these words: "This committee, established after the distribution of the yearly budget proposal, continues in operation until such time as the next committee shall be named." This theoretical exception, however, is of little practical importance. In the Chamber of Deputies, certain isolated standing committees are regularly established which are chosen in the same way as the grand committees.⁴⁶ They are, technically speaking, not grand committees in the sense that they are not incorporated into the list found in the règlement. On the other hand, certain differences in terminology are altogether anomalous. Thus, they are not called *grand*, though they are of the same size as the grand committees. They are likewise not called *permanent*, as the annual grand committees still are in the règlement;⁴⁷ and yet the isolated committees are actually chosen for an indefinite period, which in many cases means for the duration of the legislature.

Under the régime of special committees in the French Chambers, the situation with respect to the duration of committees was far from satisfactory. The règlement of 1876, by not stipulating any definite time at which the life of a committee was to be considered at an end, increased this uncertainty by the provisions which allowed the Chambers

⁴⁴ See J. O., 1923, Débats. Ch., 23 décembre, p. 4365. Cf. in the matter, Joseph-Barthélemy, *Essai sur le travail parlementaire et le système des commissions* (Paris, 1934), p. 44.

⁴⁵ Art. 15.

⁴⁶ Cf. in this whole matter, Joseph-Barthélemy, *op. cit.*, p. 41.

⁴⁷ Art. 11.

to send other measures for study to a committee already in existence. There was, accordingly, in the Chamber of Deputies no necessary limit to the duration of special committees other than the end of the legislature.⁴⁸ In the Senate, on the other hand, which owing to partial renewal never legally comes to an end, such committees, though in principle temporary, actually become "in a sense perpetual."⁴⁹ An effort was made to remedy this unfortunate condition in 1911.⁵⁰ "At present," said in that year the reporter of the committee on the *règlement*,⁵¹ "we allow a committee to continue which is only technically existent and we wait for the business of Parliament to gratify it with a new subject for study or with a new measure. This is a survival which nothing can justify; for such a committee, the mandate of which is at an end, continues to exist for several years without practical utility. . . ." The Senate thereupon adopted a provision to the effect that the mandate of a committee should come to an end three months after the measure which it had been ordered to study was either promulgated in the *Journal officiel* or withdrawn altogether. This provision, however, was rendered ineffective by a continuance of the practice of referring measures to committees already in existence. In 1920, a reporter of the committee on the *règlement* brought to the attention of the Senate, both in his report and during its public discussion, the fact that there actually existed in the Senate several committees fifteen years old, one which was twenty-eight, and another which was thirty. "These committees," added the reporter, "are manifestly too old to appear a delegation from the present Assembly. They are rather far from that simultaneous preliminary discussion in each bureau which ought to determine the selection of committee members."⁵² This state of affairs was remedied only by the establishment in 1921 of the system of grand committees.

Inasmuch as certain grand committees existed in both Chambers before the definitive establishment of a regular system of these committees, the question of the duration of grand committees had already been considered before this time both in the Senate and in the Chamber. The Senate, no doubt because of its experience with the possible effect of its partial renewal on the life of special committees, set a definite limit to the duration of the mandate of its grand committees. The Senate expressly stipulated that grand committees should be chosen at the be-

⁴⁸ Cf. Pierre, *op. cit.*, no. 758.

⁴⁹ Cf. J. O., 1920, Docs. Sén., S. E., no. 484 (19 novembre), p. 870.

⁵⁰ See J. O., 1911, Docs. Sén., S. E., no. 194 (6 décembre), p. 839.

⁵¹ For the speech of M. Cazeneuve, see *ibid.*, Débs. Sén., 8 décembre, p. 1504; and for the action of the Senate, see *ibid.*, p. 1508.

⁵² The quotation is from the Cazelles Report cited in Note 49. For the public discussion, see J. O., 1920, Débs. Sén., 26 novembre, p. 1806.

ginning of each regular session and should continue for one year. An exception, however, was to be seen in the case of the committee on customs, which was chosen for a period of three years; for the feeling existed that certain parts of the labors of this committee would be unfavorably affected if work should be interrupted at the beginning of each year by the necessity of a renewal of the committee.⁶¹ Such a view made so great an appeal to some Senators that the report of the committee on the *règlement* in 1920 actually suggested the extension to all grand committees of the three-year period. A duration of three years was deemed by the committee more practical than a one-year period "in order to assure a useful continuity of views in the labors of the committees." This, however, was not the sentiment of a majority of the Senate; and the committee, in view of the great opposition brought against the three-year period, gave its support to a system of annual grand committees, as subsequently adopted.⁶⁴

In the Chamber of Deputies, except in the case of the budget committee, charged with the study of the annual financial measures, a custom was established whereby independent grand committees came to an end only at the end of a legislature. This practice in connection with such committees came about through the absence in the resolutions which set them up of any stipulation for a definite duration. As was pointed out in the remarkable report of the committee on the *règlement* in 1898, the life of grand committees had become coterminous with the duration of a legislature for the simple reason that these committees were set up by resolutions charging them with the examination of all proposals which might be referred to them; for inasmuch as the committees had always in practice more material for study than it was possible for them to complete, they became in effect permanent.⁶⁵ This report, reviving a proposal made in 1894, supported a system of annual committees; and when, after the whole scheme had been recommitted to the committee on the *règlement*, the same question was debated a few months later on the occasion of the discussion of certain proposals for setting up several isolated grand committees, without thereby committing the Chamber to a regular system of these committees, the committee on the *règlement* again proposed the annual selection of committee members. However, the debate in the Chamber brought out overwhelming sentiment in favor of the principle of permanency, and the committee on the *règlement* rallied to an amendment stipulating that

⁶¹ For these details, see J. O., 1911, *loc. cit.* Cf. also Breton, *op. cit.*, p. 191.

⁶⁴ Cf. J. O., 1921, *Débs. Sén.*, 19 janvier, p. 21.

⁶⁵ For the Graux Report, see Note 6. Cf. also Pierre, *op. cit.*, no. 758.

the grand committees should be elected for the duration of the legislature. This proposal was easily adopted.⁵⁶ Once more in the Chamber of Deputies at the time of the establishment of a system of grand committees in 1902, the committee members were named for four years. The reporter of the committee on the *règlement*, in his report of that year, deemed it unnecessary to advance any arguments in favor of the principle of permanency; and the principle was adopted without discussion.⁵⁷ The new *règlement* of 1915 continued this practice at the time of its adoption. However, the matter was reopened at the beginning of the year 1920 by the many new Deputies returned to the first post-war Chamber.⁵⁸ "The great problem which presented itself to the committee," said the reporter in debate at that time, "was that of a choice between the annual selection of committees and a period coincident with the life of the legislature." This question was in reality decided in the committee on the *règlement* after a keen debate there concerning the matter; for when the committee determined to support the annual election of committee members, the Chamber accepted the proposed change without division. Since that time, annual election has been the prevailing practice in the Chamber.

The budget committee of the Chamber of Deputies, now called the committee on finance, which was in existence as an annual grand committee in the Chamber before the definite establishment in 1902 of the system of grand committees, was not included in the list of committees at that time; for the principle that the life of the committees was to extend throughout a legislature was felt to be inapplicable to a committee dealing with the annual budget.⁵⁹ In 1915, no doubt in large measure because of the World War, the budget committee was included in the list of grand permanent committees contained in the new *règlement*; and inasmuch as the principle of duration for the period of a legislature was retained for these committees, the annual election of the budget committee gave way to election for four years. This remained the case until 1920, when it, together of course with all the grand committees, became annual.

French experience suggests that such controversy as is likely to appear with respect to the duration of standing legislative committees will take the form of disagreement between those who support annual

⁵⁶ For these details, see J. O., 1898, Débs. Ch., 16 novembre, pp. 2215, 2222.

⁵⁷ For the Breton Report, see Note 6. For the action of the Chamber, see J. O., 1902, Débs. Ch., 18 novembre, pp. 2618, 2636.

⁵⁸ For the remarks of M. Joseph-Barthélemy and for details of the action of the Chamber, consult J. O., 1920, Débs. Ch., 28 janvier, pp. 62, 64.

⁵⁹ Cf. J. O., 1902, *loc. cit.*

committees and those who deem it preferable that committees should remain of the same composition until an election of the whole legislative body, or of a considerable part of it, has brought new members among the old. On two principal occasions in France, in 1898 and in 1920, the arguments on both sides of the controversy were marshaled with great completeness in the Chamber of Deputies. The fact that on the first occasion the principle of permanency was overwhelmingly victorious and that on the more recent occasion this principle was as decisively beaten by the principle of annual selection would seem to indicate that experience suggests no definitive conclusion in the matter.

The general advantage argued to result from permanency of tenure is a coördination of effort and a continuity of views which are highly desirable in the case of legislative enactments of a related character.⁶⁰ The argument maintains the peculiar necessity of securing "that spirit of consistency without which all work is incoherent and sterile." Against this advantage must be set, according to the opposing view, the disadvantage resulting from the possibility that particularly competent and specially qualified members may be excluded for all or a considerable part of a legislature from committees for which they are excellently well fitted. Such members, this argument runs, may for good reason be absent from the meeting at which committee members are chosen; they may not yet have become members of the Chamber; or they may be prevented, by being ministers, from securing membership on a committee for which they are eminently qualified. If to this disadvantage of permanency be added the fact that reëligibility will secure in large measure the same good results as permanency, while avoiding its great disadvantage, the contention is made that annual selection of committees is the best possible method. "It combines so far as practicable," the argument maintains, "unity of method and spirit of consistency with the possibility of changing part of the members of committees." This is the summary of the problem which was presented in the remarkable report of the committee on the *règlement* in 1898 in the Chamber of Deputies. In this report and in the debate of which it was the basis, the able reporter supported the superiority of annual selection. The experience of the budget committee was offered as evidence; for to it especially competent members were recognized regularly to be reëlected. The fact, however, may be recalled that the proposal was this time overwhelmed by the advocates of permanency. They argued that for most

⁶⁰ The substance of the argument here and the quotations given are to be found in the 1898 Graux Report (see Note 6). For the position of M. Graux in debate and the action of the Chamber at that time, see J. O., 1898, *loc. cit.*

of the grand committees annual election was well-nigh impossible.⁶¹ Instances were given where the work of committees had necessarily to extend over a greater period of time than one year, and the contention was made that serious interference with this work would result from the annual renewal of committee membership. One speaker argued that the experience of the Chamber with the budget committee was associated with such a special case as to be of no value; and he pointed out that with regard to the other grand committees the simple fact was that not one-half the members were reelected. With annual committees, he said, "all the work of the preceding year would have to be put back on the waste-heap." The opinion which prevailed was that pithily expressed by another member and enthusiastically received by the advocates of permanency: "The permanency of committees offers this advantage: for four years, and it is not too much, it is the same persons who from time to time work together on the same questions."

The report of the committee on the *règlement* in 1920 outlined fully the arguments which had been advanced during the lively debate in the committee.⁶² It set out in turn the contentions in favor of retaining the four-year period and the considerations which had prevailed with the majority of the committee, causing them to suggest to the Chamber the adoption of annual election. In the first place, permanency was argued to be necessary in order to assure *responsibility*. A committee near the end of its life, the argument ran, will abstain from tackling thorny problems, preferring to leave them as a legacy to the committee which is to succeed it. Answer was made that this supposed advantage might result just as certainly from permanency in fact as from permanency in theory; and permanency in fact was said to be assured by a provision guaranteeing *réeligibilité*. Furthermore, such shirking as was argued to be probable in the last days of the life of annual committees was said to be by no means always possible. The argument was that a committee is not free to choose its own time for its deliberations. It must follow the movements of the Chamber and the leadership of the Government. In the second place, permanency was said to be necessary in order to assure *expertness*. Only at the end of long months, ran the

⁶¹ It is not without interest to note that in 1898 a vigorous opponent of annual election was M. Groussier, who was subsequently in 1920 president of the committee on the *règlement* which itself adopted and carried in public session the principle of annual selection. In 1898, M. Groussier exclaimed that he would like to see members named for life.

⁶² For the report of M. Joseph-Barthélemy here analyzed and quoted from, see J. O., 1920, Débats. Ch., 24 janvier, pp. 52-53. For the most recent treatment of this subject by M. Joseph-Barthélemy, see his *Essai sur le travail parlementaire*, pp. 26 et seq.

argument, and sometimes only at the end of long years, does a Deputy become a really competent committee member. The budget committee was said to illustrate this better than anything else. On the other hand, the argument that expertness comes from long assiduity was asserted by those of the opposite school to be denied by the facts. Whatever truth there might be in the argument was said to be more than offset by a regrettable tendency on the part of members to be absent from meetings. The belief that a sanction for non-attendance would cure the ill was stated to be contrary to experience, which had shown the inefficacy of such sanctions as were contained in the *règlement*. Again, permanency was maintained to be necessary in order to ensure the proper working of *parliamentary control*. "It is by long assiduity in committee work that the desired competency is acquired to exercise with the necessary authority the control of the public services." To this the committee replied that its wish was to extend to new members the opportunity to cultivate any aptness which they might show. In short, reëligibility would be legal and reëlection would be the rule. "With renewal as a legal possibility and reëlection as an actual fact, there will be combined the advantages of tradition and of renewal, of control and of permanence. Stability will be established by reëlection and by the continuation of confidence. It will be worth more thus than if based mechanically on the blind disposition of a rigid rule." Arguments of a particular nature concerning this matter of the duration of grand standing committees were naturally combined inextricably in the committee report with arguments based on political principle. The discussion concerning responsibility, expertness, and control was supplemented at many points by controversy concerning the question of the basis of the very existence of a system of grand committees. Thus, just as particular considerations constantly crept into the series of debates on principle which preceded the establishment of a system of grand committees in the Chamber, so the question of principle could not be divorced from a detailed consideration of a specific aspect of the system.

If the practical arguments be considered which were arrayed against one another in the discussion of the duration of grand committees, a conclusion would seem with but little question to suggest itself in favor of the superiority of annual selection. This conclusion would in fact appear axiomatic, if in actual practice annual election will approximate to the advantages of permanency while avoiding its disadvantages. Furthermore, experience appears to bear out this conclusion; and the same is likewise true of the argument that with an adequate method of selection competent members will regularly be reëlected. The fallacy

in the refusal of the advocates of permanency to accept the experience of the budget committee and in their contention that the other grand committees had under the previous arrangement reëlected in practice less than one-half their members lies in the very fact that the former committee was annual while the latter were permanent. Since permanent committees were elected at the beginning of a legislature, the proportion of old members to new in the committees could be expected in large measure to vary with the same proportion in the Chamber as a whole. Considerations of various kinds, but scarcely the question of the continuity of committee work, determine, of course, the composition of the new Chamber. Accordingly, the variation in committees would naturally be greater after the whole Chamber has "gone to the country" than it would be when identically the same members have returned for another session.

Election of Committees

The method by which the members of legislative committees are chosen is easily recognized to be a matter of paramount importance. In France, the question derives considerable interest both from historical considerations and from the special nature of the method in use at present in that country.

Each of the Chambers of the French Parliament now employs essentially the same process for selecting the members of the grand committees. Between the method in use in the Chamber of Deputies and that employed by the Senate there are only minor differences of detail. Selection of committee members takes place in theory in a public sitting of the Chamber involved; and the members of each committee are chosen, in accordance with the principle of proportional representation, on what would in America be called a "general ticket." This means that in practice election by the Chamber as a whole is a mere formality, the real choice lying in the hands of the various political groups in the Chamber. Provisions of the *règlement* of each of the Chambers,⁸⁸ officially recognizing the existence of political parties, regulate the details of the system.

A certain number of days before the date fixed for the determination of the membership of the grand committees, in the Chamber of Deputies five days and in the Senate six, it is incumbent upon the political parties in the Chamber involved to draw up lists of their members. No name may appear on more than one of these lists. The lists must be handed

⁸⁸ Chamber, Art. 12; Senate, Art. 19.

by the officers of the parties to the Presidents of the Chambers, and they are in both cases immediately published in the *Journal officiel*. When these lists have been established, the officers of the parties easily determine what ratio the membership of their respective parties bears to the whole membership of the Chamber involved; and this ratio determines the fraction of the total membership of each of the grand committees, that is to say, the fraction of forty-four in the Chamber of Deputies and of thirty-six in the Senate, to which each party is entitled. Each party then proceeds to select from its number for each committee the number of members to which it is entitled. The problem raised by remainders is solved in practice by negotiations of various kinds among the several political groups.⁶⁴ This practice, interestingly enough, gives rise to the evaluation of membership on the various committees, one membership on the committee on finance, for example, being regarded as the equivalent of more than one membership on another committee. The resulting manipulation may even give rise, and does in practice at times give rise, to a stultification of the principle of proportionality. This falsification of the principle of proportional representation, which has been in practice manifested in a particularly striking way in the choice of the president and reporters of the committee on finance, is said to be furthered by the uncertainty of secret voting in committee elections and by an allegedly less narrow partizanship on the part of the Right than on the part of the Left. The names of the members determined upon by the parties are handed to the Presidents of the Chambers, and the membership list for each grand committee may then be completed. These lists must be published three days before the date chosen for the formal determination of the membership of the committees; and if during the succeeding three days no objection is made to the published lists in the form of a petition signed by fifty members in the Chamber of Deputies or by twenty in the Senate, whose names must be inserted in the *Journal officiel*, the lists are considered to have been adopted by the Chambers. If such objection should be made, the Chamber as a whole proceeds to a vote. So far as can be ascertained, this eventuality has been realized only once in practice.⁶⁵ On that occasion, the Chamber as a whole confirmed members recommended by the extreme Left to whom objection had been made.

In connection with the regularly established system of election, two

⁶⁴ For an authoritative account of this whole matter, see Joseph-Barthélemy, *op. cit.*, pp. 110 *et seq.*

⁶⁵ Cf. Joseph-Barthélemy et Paul Duez, *Traité de droit constitutionnel* (2^e éd., Paris, 1933), p. 546.

questions of a special character have been anticipated by the *règlements*. The first question has to do with the problem of those members of either Chamber who may be unwilling that their names appear on a list of any one of the political parties. When the system of choosing the members of the grand committees by proportional representation was in 1910 adopted in the Chamber of Deputies, the provisions added to the *règlement* at that time contained no reference to unattached Deputies. However, a stipulation was adopted in 1920 to regulate the matter. In order to obviate the necessity that members of tender scruples be considered even temporarily members of a group of independents or have their names appear on a delicately paradoxical *list of non-listed* members, practices which had been prevalent for a decade, an informal scheme was devised calculated not to offend the finest sensibilities. The Senate, in establishing in 1921 its system of grand committees and election by proportional representation, introduced into the *règlement*⁶⁶ a provision with only slight verbal differences from that adopted in the Chamber. The stipulation of the *règlement* of the Chamber⁶⁷ was as follows: "The Deputies who belong to no group shall so advise the President of the Chamber, who shall convene them in a special bureau for the purpose of choosing their candidates." The Chamber, after a little more than a decade of experience with that provision, adopted another change in June of 1932.⁶⁸ The change appears to have been aimed by the groups of the organized parties in the Chamber at the practice of certain Deputies who were in the habit of combining in a number nicely calculated to give the combination representation on the various grand committees. In fact, examples can apparently be cited of unsuccessful candidates who have withdrawn from their group and realized success by this kind of combination. The new stipulation requires each political group in the Chamber to draw up and to sign a declaration of general principle and policy. Thereupon, such Deputies as are not members of any group, if they wish to have a part in the selection of committee members, must affiliate with the group whose declaration appears most nearly to coincide with their own views. They are listed in a separate alphabetical list; but, for purposes of committee election, they must proceed with the group.

The second special question anticipated by the *règlement* of each of the Chambers is that of a method for filling vacancies which may

⁶⁶ Art. 19.

⁶⁷ Art. 12.

⁶⁸ See J. O., 1932, Débs. Ch., 11 juin, pp. 2290-2291. Cf. Joseph-Barthélemy, *op. cit.*, pp. 91-93.

occur in the membership of the grand committees between the dates of two annual elections. Each *règlement*⁶⁹ stipulates that the method of filling vacancies shall be the same as that employed in the annual elections. The *règlement* of each Chamber specifies that vacancies may occur "by death, resignation, or otherwise." This last generality may include such cases as a declaration of vacancy for non-attendance and the personal exchange of places on committees.⁷⁰ However, it will, of course, be necessary only for the parties to which the members belonged whose places are being filled to take part in the process. The *règlement* of the Chamber of Deputies adds a clause which states that the parties must in such cases always observe the principle of proportional representation.⁷¹ This is intended to anticipate a difficulty which may arise. It arises when between the time of the original election of the vacating members and of the election for the purpose of filling the vacancies, alteration takes place in the composition of the parties by individual changes, divisions, or fusions. This has been suggested as a grave defect in the method of selection; but the difficulty manifestly results from the instability of French political groups and would be attendant on any system based on proportional representation.⁷² In practice, the difficulty may be expected to present itself only very rarely; and, in all events, if the solution attempted on these rare occasions proves unsatisfactory, the slight damage done will be extended over a period of less than one year.

For the selection of the regularly established grand committees in both Chambers, the method of choice by the political groups is regularly employed. The *rèlements* contemplate no other system. However, in the case of additional standing committees or of special committees, on which the Chambers may of course at any time decide, the Chambers possess three methods from which to choose one:⁷³ the election may take place in accordance with the system employed for the regular grand committees; the Chambers may determine that the election shall be held, according to the old system, in the bureaux; or they may also employ selection on a "general ticket," which was formerly an alternative method to election in the bureaux. Finally, in the Chamber of Deputies, a special committee may exceptionally be set up through the designation by two

⁶⁹ Chamber, Art. 12; Senate, Art. 19.

⁷⁰ For this interpretation of M. Joseph-Barthélemy, see J. O., 1920, Docs. Ch., S. O., no. 493 (9 mars), p. 341. Cf. also *Essai*, pp. 113-114.

⁷¹ Cf. Pierre, *op. cit.*, no. 739 (Supp.).

⁷² Cf. Breton, *op. cit.*, pp. 131-132.

⁷³ *Règlement de la Chambre*, art. 15; *Règlement du Sénat*, art. 21. Cf. Pierre, *op. cit.*, nos. 728 et seq.

or more grand committees of certain of their members in a proportion determined by the Chamber.⁷⁴ From time to time, a notable example occurring during the World War, a proposal is introduced into the Chamber suggesting that the committee on finance, with a view to unity and coördination, should regularly be constituted by delegates from the other grand committees.⁷⁵

The traditional method in France by which the members of legislative committees are selected, which was supplanted by the system of nomination by the political groups, is that of election in the bureaux. It is a method which has an ancient origin, a familiarity resulting from long and varied practice, and even a justification based on principle combined to establish in what for a time appeared a well-nigh impregnable position. Moreover, the dislodgement of the system from its stronghold in the present century does not mean that it is no longer of any consequence. On the contrary, it is important in several respects. For one thing, the influence of the system is visible in the size of the grand standing committees. Moreover, not only does selection of committees in the bureaux continue in some respects a possible system at the present time in both Chambers, and not only do the attractions of the system remain so strong for some that they continue to maintain its superiority over the present method; in practice, selection by the bureaux is in certain cases regularly employed.⁷⁶ For example, no other system seems possible in respect of certain committees which must be set up at some period, such as at the beginning of a legislature, when the political groups have not yet been constituted. Again, the system is regularly employed in the case of committees of investigation. Finally, the committees which are established by règlement in the Senate, corresponding to certain grand standing committees in the Chamber but in the Senate not listed with the grand committees, are clearly given a special status for the express purpose of allowing them to be chosen in the bureaux.⁷⁷

Almost from the beginning of the Third Republic, much sharp criti-

⁷⁴ *Règlement de la Chambre*, art. 31. Cf. Pierre, *op. cit.*, no. 751 (Supp.).

⁷⁵ Cf. J. O., 1915, Docs. Ch., S. O., no. 1356 (13 octobre), p. 1038. In the Senate in 1929, a proposal was made that the committee on aviation should be chosen according to a similar principle; and the Senate adopted a modification of this proposal on the recommendation of the committee on the règlement. Cf. J. O., 1929, Docs. Sén., S. O., no. 35 (25 janvier), p. 24, no. 160 (14 mars), p. 154.

⁷⁶ Cf. Joseph-Barthélemy et Paul Duez, *op. cit.*, p. 747.

⁷⁷ An unusual proposal was introduced into the Chamber in 1920 by M. Petitjean. It seems to have aroused no interest. The Chamber at the beginning of a legislature was to be divided into four "study sections" of eighty-eight members, one of 176, and one of 264. They were to choose respectively two, four, and six committees of forty-four members each. Cf. J. O., 1920, Docs. Ch., S. E., no. 218, p. 30.

cism was brought against the bureaux and their part in the selection of the members of legislative committees; yet, as is so often the case, it was easier to find fault with an existing practice than to discover an acceptable substitute. Speakers often recognized the validity of criticisms brought against election in the bureaux, but asserted that they found difficulty in discovering a method equally good.⁷⁸

At the time of the adoption in 1876 of the first *règlement* of the Chamber of Deputies, the view was accepted as unquestionable that bureaux should exist and that legislative committees should be named in them. The reporter of the committee on the *règlement* pointed out in his report at the time that this was a firmly established tradition in France and that such a fact, connected with the familiarity on the part of the Deputies with the bureaux and their activities, had caused the committee on the *règlement* to adopt the system with confidence.⁷⁹ During debate the only suggestion made in favor of minority representation received no sympathy; and the effort proved abortive.⁸⁰ A similar effort in 1882 to secure minority representation on the budget committee was equally unsuccessful. A proposal to elect this committee on a "general ticket" was easily voted down, no one having taken the trouble to answer the arguments of the propounder.⁸¹ In this same year the first real departure from the existing system was proposed by a Deputy who suggested, for the selection of certain grand committees which were contemplated in the Chamber, a system of voluntary inscription. The same system was proposed by another Deputy in 1885, and it was again brought forward in a resolution proposed in 1889.⁸² The advantage claimed for this method was the respect which it showed for the independence of the individual member in offering to him the opportunity of choosing the committee for which he considered himself best fitted. On the other hand, reply was made that this method would be certain to experience considerable difficulty in its practical application. Too few members, it was argued, would inevitably inscribe themselves for the less important committees and too many for the more important. The original sponsor of the method himself recognized

⁷⁸ A rhetorical Deputy in 1902 compared his attitude to that of the ancient philosopher in his contemplation of the human soul: "I should like to find it ugly in its imperfections; but since I find nothing more beautiful than it, I am, indeed, obliged to admire it." J. O., 1902, *loc. cit.*, p. 2619.

⁷⁹ For the Millaud Report, see J. O., 1876, mai-juin (annexe no. 152), p. 3920.

⁸⁰ *Ibid.*, p. 4039.

⁸¹ For this effort of M. Solard, see J. O., 1882, Débts. Ch., 21 mars, p. 356.

⁸² The proposer in 1882 was M. Graux, in 1885 M. Letellier; in 1889 both M. Graux and M. Letellier were sponsors. Cf. J. O., 1882, Docs. Ch., S. O., no. 639 (20 mars), p. 908; J. O., 1885, Docs. Ch., S. E., no. 204 (10 décembre), p. 680; J. O., 1889, Docs. Ch., S. E., no. 7 (16 novembre), p. 4.

some years later this drawback. As a solution, the proposal was made that those committees for which a large number of names had been inscribed should be divided into two and that two or more committees for which only a few names had been offered should be fused. This likewise proved unacceptable. The argument was made that in the first case rivalry would be certain to arise between the two divisions, and that, in the latter case, wholly unrelated matters might be made to fall within the sphere of the same committee.⁸³ None of these proposals came near to success; and in 1889 a resolution for establishing a system of grand committees, introduced three days after the proposal of the system of voluntary inscription, maintained the system of election in the bureaux, suggesting by way of change only a scheme for partial renewal of the members of the committees.⁸⁴

The question of the method of selection of committees arose again at the beginning of the two following legislatures, the sixth in 1894 and the seventh in 1898. In 1894, in the proposal which was revived for the establishment of a system of grand committees in the Chamber of Deputies, the method of election in the bureaux was, it is true, retained.⁸⁵ However, considerable stress was laid on the fact that, according to the provisions of the proposal, an opportunity was offered to the several members of the Chamber to inscribe themselves in their respective bureaux for the committees on which they wished to serve. This was based on the principle of a system in use in the Paris Municipal Council and in the General Councils of the Departments. The system, which was called election by elimination in the bureaux, laid emphasis on the fact that election would take place only where more members of a bureau desired membership in a particular committee than the number to which the bureau was entitled. However, this was not a very far-reaching proposal; for the change suggested was manifestly purely a question of procedure which might on occasion have been employed at any time in the bureaux under the existing *règlement*. The same method of selection was proposed in 1898 when the effort was once more unsuccessfully made to establish a system of grand committees in the Chamber.⁸⁶

A slight change in the *règlement* was adopted in 1894 and another introduced into it in 1900. In 1894, a resolution was adopted stipulating

⁸³ The several views were summarized in the 1898 Graux Report and in the 1902 Bréton Report (see Note 6).

⁸⁴ For this proposal of MM. Bourgeois and Siegfried, see J. O., 1889, *loc. cit.*, no. 6 (19 novembre), p. 3.

⁸⁵ Cf. J. O., 1894, Docs. Ch., S. O., no. 629 (17 mai), p. 81.

⁸⁶ Cf. 1898 Graux Report (see Note 6).

that in the case of the selection of the budget committee, the Chamber should be divided into the bureaux by a specially drawn lot and that the bureaux were to convene within two hours after their establishment.⁸⁷ The object of this measure, as is clearly apparent, was to avoid bargaining in the bureaux on the occasion of the selection of this important committee. In 1900, a resolution determined that for the selection in the bureaux of all committees of thirty-three members, balloting should be by roll-call.⁸⁸

At the beginning of the eighth legislature in 1902, when the system of *grand committees* was finally introduced into the *règlement* of the Chamber of Deputies, considerable interest was naturally displayed in the method of selection which should at that time be adopted. A month before the establishment of the system of grand committees, a proposal had been made to elect two grand committees on a "general ticket." Two Deputies who were interested in the proposal advocated this method as one more likely than election in the bureaux to secure proportional representation of the political groups; while another member of the Chamber opposed the suggestion on the ground that this method, though allowed by the *règlement*, was never intended to be used save in very exceptional cases. Only one of the committees was, as a matter of fact, adopted, and for it the method suggested was approved. However, an amendment stipulating that the election on a "general ticket" should take place in the bureaux, rather than in a public sitting, was adopted; and a further amendment was passed affirming that in this instance, in order to avoid long-drawn-out preliminary discussions, the bureaux should be considered as only voting rooms.⁸⁹ It was in the middle of November, at the time that the system of grand committees was adopted, that the question of a method of selection aroused the greatest interest. The reporter who was finally successful in securing the adoption of a system of grand committees in the Chamber stated that in the committee on the *règlement* "the most delicate question to solve" had been the method of selection for the committees.⁹⁰ Two possibilities presented themselves to the committee. It could "propose the maintenance of the method of election in the bureaux in spite of its undoubted defects recognized by all," or it could "look for a more perfect means which would permit a better distribution of ability, which would secure a juster representation of the different political parties, and which would

⁸⁷ Cf. J. O., 1894, Débs. Ch., 25 avril, p. 629.

⁸⁸ Cf. J. O., 1900, Débs. Ch., 9 juin, p. 1378.

⁸⁹ For the proposals of M.M. Gouzy and Pressensé, the opposition of M. Thierry, and the action of the Chamber, see J. O., 1902, *loc. cit.*, 25 octobre, pp. 2480 *et seq.*

⁹⁰ It is the 1902 Breton Report here cited and quoted from (see Note 6).

involve the elimination of no Deputy desirous of lending the coöperation of his labors and attainments." The committee naturally chose the second alternative and thought to have solved the question by adopting a system proposed by the reporter himself. This method may be called that of nomination by delegation. Though complications in the practical application of such a method can be foreseen without difficulty, the method itself appears in outline simple enough. "To become a member of a committee it is sufficient to be delegated therefor by fifteen members of the Chamber. Each Deputy may give only once his delegation for the same committee and may become a member of only one of these fifteen committees. Delegations signed by fifteen members shall be handed to the President of the Chamber, who, after verification of the lists, shall proclaim the committee members in a public sitting. Each committee is regularly constituted from the time that it is composed of more than twenty members." The reporter admitted the impossibility of answering the objection that the system was absolutely new; but he easily disposed of the criticisms that such a method suppressed the preliminary discussion in the bureaux, a discussion which in reality no longer existed, and that a committee composed of members delegated by only fifteen Deputies would be lacking in authority. The matter was thus summarized in the committee report: "Each of these [committees] will, therefore, be an exact miniature picture of the Chamber, each party finding itself represented on them proportionally to its strength; and this result, so desirable in itself, will be secured without any of the loss of time which is fatally attendant upon the operation of any method of balloting." When the method came before the Chamber for discussion,⁹¹ it undoubtedly suffered from the fact of being new and hence not sufficiently understood. It was attacked especially by two members of the Chamber, whose principal objections were that into such a system the personal element too strongly entered and that no upper limit was set for the membership of the committees. The first of these objections seems undoubtedly to possess a certain validity; but it appears strange that the clear explanation of the committee report and of the reporter himself at the beginning of the discussion could have left any one who did not understand that an upper limit to the size of the committees was automatically set by the mathematical impossibility for more members to be delegated for a particular committee than the number of times fifteen was contained in the total number of Deputies in the Chamber.

⁹¹ For the debate, including the speeches in opposition by MM. Thierry and Lauraine and the speeches in support by President Sembat and Reporter Breton, and for the action of the Chamber, see J. O., 1902, *loc. cit.*, 19 novembre, pp. 2618-2638.

This limit was, in fact, only about thirty-five, or practically the same as the size of the grand committees existing at that time. Though the objections to the method proposed were ably answered by members of the committee on the *règlement*, including the president of the committee, who entered the debate at the end in order to give a last clear explanation of the working and the advantages of the new system, the proposal of the committee was rejected by the large majority of 412 to 149. Several amendments received a similar treatment; and by elimination only the existing articles of the *règlement* which dealt with the election of committees were left. However, in order that no use should be made of the alternative method of election on a "general ticket," an amendment proposing that all the committees should be chosen in the bureaux was adopted. The following day,⁸² a resolution of a Deputy of note, stipulating that all members of the Chamber not elected to one of the committees should be equally distributed among them, was refused the benefit of urgency and sent for study to the committee on the *règlement*, from which it never emerged. A second resolution, suggesting that the committees should be elected by a system of proportional representation, was defended by the introducer in a set speech, but met a similar fate.

At the beginning of the next legislature in 1906, the plan for nomination of the grand committees by delegation was revived, and on this occasion it was rejected only by the narrow margin of fifty-one votes.⁸³ This turned out to be the last serious effort made in the course of the legislature. Four days later a report of the committee on the *règlement* opposed all of five resolutions dealing with the method of electing committee members. "It has not appeared to it," said the report in referring to the committee on the *règlement*, "that the labors of Parliament have had to suffer from the existing state of affairs. The work of the last legislature, which was so fruitful, is rather a witness in favor of the *status quo*." The Chamber voted not to pass to the discussion of the five proposals.⁸⁴

Finally, in the next legislature the method of election in the bureaux was finally supplanted by the system of nomination by the political parties. The author of the system was chosen by the committee on the *règlement* as its reporter. His report contained only a short criticism

⁸² For the Chamber's action on the resolution of M. Boyer and M. Reveillard, see *ibid.*, 20 novembre, pp. 2655, 2679.

⁸³ Cf. J. O., 1906, Docs. Ch., S. O., no. 5 (12 juin), p. 449; Débs. Ch., 23 juin, p. 2046. This proposal was revived again in 1928. See J. O., 1928, Docs. Ch., S. O., no. 163 (7 juin), p. 1943. It apparently did not arouse a great deal of interest.

⁸⁴ Cf. J. O., 1906, Débs. Ch., 27 juin, pp. 2090-2091.

of election in the bureaux and an equally brief and concise explanation and justification of nomination by the political parties. The debate took place in the Chamber on the following day. The method proposed was bitterly attacked in a long and eloquent speech by a veteran Deputy, but ably defended by others. The Chamber, after disposing of several amendments which had been offered, adopted the system proposed by the committee. Only a verbal alteration, deemed by some to be of great importance, was made. It consisted of the substitution of the word *group* for *party*.⁹⁵ The system, in the course of the legislature, became well established in the Chamber; so that at the beginning of the next legislature in 1914, the committee on the règlement had to deal only with minor details.⁹⁶ The new règlement of 1915 incorporated the system of nomination by the groups into its articles. However, in 1920, when the first post-war legislature convened, the question of the method of electing committee members came again into prominence. The new Chamber contained a large number of Deputies elected for the first time; and one of these was elected reporter of the committee on the règlement.⁹⁷ In his report, the reporter related that many of the new-comers had arrived in the Chamber opposed to the method of nomination by the political parties, but that in the committee on the règlement they had become convinced of the merits of the system and had favored its maintenance. "On the morrow," ran his report, "of the great national referendum of November 16 [1919], when we were still moved by emotion at the popular decision commanding the close union and the intimate collaboration of all good republicans, it appeared, at least to a certain number of new-comers among you, that official consecration of the existence of parties breaks the necessary unity of national representation and results in the dissipation of good-will and the dispersion of effort. Some reproached it with accentuating divergencies, with encouraging the creation, by impatient trimmers, of artificial parties, and with favoring intrigue. We even heard old members of this Assembly assure us that this system had served to oppress devoted abilities. These

⁹⁵ For the proposal and report of M. Maunoury, see J. O., 1910, Docs. Ch., S. O., no. 76 (10 juin), p. 480; no. 222 (30 juin), p. 593. For the debate, including the speech in opposition by M. Lemire and those in support by MM. Jaurès and A. Ferry, see *ibid.*, Déb. Ch., 2 juillet, pp. 2369 *et seq.*

⁹⁶ Such, e. g., as the difficulties mentioned as growing out of the instability of groups. Cf. J. O., 1914, Déb. Ch., 19 juin, pp. 2488-2493.

⁹⁷ For the report of M. Joseph-Barthélemy, see J. O., 1920, *loc. cit.*, S. O., no. 228 (23 janvier), p. 109. Cf. also, *ibid.*, Déb. Ch., 24 janvier, pp. 50-54. For the debate, see *ibid.*, 28 janvier, pp. 61 *et seq.* The veteran parliamentarian, M. Louis Marin, one of the vice-presidents of the committee on the règlement, was unable to suppress a feeling of the old horn of experience, and expressed his satisfaction that an important lesson had been so soon learned by the uninitiated.

varied apprehensions were aggravated by the fact that a large number of new-comers hesitated immediately to link themselves to parties of which they knew the tendencies and personnel only by hearsay." Likewise in his statement before the Chamber, the reporter said of the new-comers that they "were in general . . . in favor of election in the bureaux"; but he supported the maintenance of nomination by the groups in accordance with the conviction which had come to him since his arrival in the Chamber. In the result, the Chamber maintained the system, merely incorporating what was considered an improved method for dealing with members who belonged to no political party. Finally, a few months later, the Chamber adopted another improvement in detail calculated to foresee difficulties in filling vacancies in the membership of the grand committees.⁹⁸

In the Senate, the question of how members of committees should be selected has never aroused any marked agitation. The Senate, being in general a more conservative body, clung more naturally to election in the bureaux. Criticism of this system was less frequent and less violent than in the Chamber. Though proposals were made for adopting in the Senate the system of nomination by the political groups at the same time that the system was adopted in the Chamber, it was introduced into the Senate *règlement* only after the Chamber of Deputies had already had ten years of experience with it. The report of the Senate committee on the *règlement* in 1876 accepted election in the bureaux as the best and most natural method, and it even proposed the abolition of the alternative method consisting of selection on a "general ticket" in a public sitting.⁹⁹ The proposals of 1910 received little attention in the Senate; and in 1911, when the matter came into brief prominence on the occasion of a discussion in the Senate of an improved method for filling vacancies in committees, little question arose of not retaining election in the bureaux, though the reporter of the committee on the *règlement* came in for some good-natured heckling from the Right on the matter of minority representation.¹⁰⁰ At last, toward the end of 1920, the committee on the *règlement* which proposed the establishment of a system of grand committees for the Senate supported the plan for nomination by the political parties. The report asserted that all were now agreed that lot and chance should be eliminated, that political parties were an essential part of the parliamentary system, and

⁹⁸ Cf. *ibid.*, Docs. Ch., S. O., no. 493 (9 mars), p. 341; Débs. Ch., 28 mai, p. 1652, p. 1667.

⁹⁹ For the Corne Report, see J. O., 1876, mai-juin (annexe no. 29), p. 3496.

¹⁰⁰ For the 1910 proposal, see J. O., 1910, Docs. Sén., S. O., no. 332 (5 juillet), p. 1000. For the 1911 discussion, see J. O., 1911, Débs. Sén., 8 décembre, pp. 1504-1508.

that it was high time they were officially recognized. Opposition to the plan during the public discussions was for the most part sporadic; and in January of 1921 this system of nomination by the parties was finally accepted.¹⁰¹ This remains, of course, the prevailing system, though election in the bureaux appears to retain a stronger foothold and more persistent support than in the Chamber.

In the circumstances existing in France, arguments concerning how members of legislative committees ought to be chosen have naturally taken for the most part the form of support or derogation of one or the other of the two systems of selection which have been employed in practice. So far as the desiderata for a good system of selection are concerned, opinion has apparently been practically unanimous in Parliament. The ideal seems to be based on two important principles. The first of these is that those who wish to work and are able to work should not be deprived of the opportunity, but should be allowed to choose the committee for which their abilities best suit them. The second is that the political parties should be represented in proportion to their strength. The assumption has been made that a method should be sought which is based on both of these principles.¹⁰² In reality, the truth would seem to be that a good system of selection is one which rests sometimes on one of them and sometimes on the other. With respect to the study of measures of a definitely political and highly controversial nature, it is manifestly important that committees should by their composition reflect the political opinions of the whole assembly. On the other hand, the importance of such composition largely disappears where the question to be studied is local, technical, or otherwise of a special character. On more than one occasion in France this point of view appears to have been understood. The position has been taken in Parliament not only that all committees should not necessarily be elected in the same fashion but also that other groups, such as the agricultural group, cutting across several political groups, should receive consideration when the members of committees are chosen.¹⁰³ Very little interest, however, has attached to these suggestions.

The first virtue which was claimed for the system of election in the bureaux is the opportunity which was afforded for preliminary discussion. Such a discussion was claimed to have a twofold value. In

¹⁰¹ The report was the Cazelles Report (see Note 49). For the debate, see J. O., 1920, Débs. Sén., 26 novembre, pp. 1806-1813; J. O., 1921, Débs. Sén., 19 janvier, p. 20.

¹⁰² Cf. the Breton Report (see Note 6).

¹⁰³ Cf. J. O., 1920, *loc. cit.* For the distinction between the political groups and the *groupes d'études* and for a tendency on the part of the latter to duplicate certain grand committees, or vice versa, consult Joseph-Barthélemy et Paul Duez, *op. cit.*, pp. 536-537; and Joseph-Barthélemy, *op. cit.*, pp. 83 *et seq.*

the first place, it gave to every one, especially to younger members too timid to speak in the more trying circumstances of a public session, an opportunity to take part in an informal way in the study of every measure. In addition to that, the discussion gave to the committee members selected an indication of the direction which the study of the committee should take. With respect to the first point, the assertion was even made that such discussion was a necessity for new-comers in a Chamber, no other method for their education in Parliament being comparable to it. The second point seemed to the supporters of the bureaux equally clear. "The general discussion which takes place on the occasion of the election," said one of their number in 1898,¹⁰⁴ "gives to the elected an indication of the doctrines which they will have to elaborate." The claim was made that as a result the committees elected in the bureaux represented for practical purposes the sentiment of the Chamber. At the same time, as independent grand committees came to be more and more frequent, this last argument was answered by the contention that preliminary discussion was without object in the bureaux inasmuch as no one could at the time of the election of committees know what measures were to be referred to them. The argument was that discussion was no longer of value and would in reality become non-existent. However, the supporters of the bureaux refused to be convinced. "The previous examination made by the bureaux," it was said in 1898,¹⁰⁵ "permits them to indicate in a fashion quite vague, quite general, but none the less useful, what is to be the direction followed by the committee named." Nevertheless, the facts seem to have been against such a view. Interest in the preliminary discussion in the bureaux almost wholly disappeared. A member reminded the Chamber of Deputies in 1894 that, except for the election of the budget committee and one or two others, discussion in the bureaux had practically ceased to exist. He added that even for the election of members to important committees often not more than half a dozen members were present.¹⁰⁶ In connection with the budget committee, Léon Say suggested that a lack of interest in budget discussion in the bureaux was natural because of the fact that the Minister of Finance was present in only one bureau.¹⁰⁷

A second advantage which the system of election in the bureaux was conceived to possess is the alleged fact that chance favored the represen-

¹⁰⁴ Graux Report (see Note 6). This report contains a statement of the various arguments in the matter.

¹⁰⁵ *Ibid.*

¹⁰⁶ For the remarks of M. Lebon in debate, see J. O., 1894, Débs. Ch., 12 juin, p. 975.

¹⁰⁷ Cf. J. O., 1891, Débs. Ch., 18 février, p. 339.

tation of the minority in the committees. The assumption seems to have been made that the possibility for a member of the minority to be chosen for a committee was better left to chance than to a majority. Certainly complaint was early made that the majority wholly eliminated members of the minority from the budget committee. On the other hand, hope for minority representation was supported by the fact that in the case of non-controversial and non-political measures even bureaux composed of a great number of members of the majority at times chose for a committee some member of the minority who showed especial interest in or marked aptitude for a particular question. Thus, experience with this fact led a member of the minority to say in 1898:¹⁰⁸ "There exists a certain number of us who might come here one after the other to thank you in this respect for your liberalism. Truly we have not to complain to you on the ground of exclusion. To do so would be fantastic and extravagant. Consequently, according to my opinion, the present method, with all the uncertainty of the composition of the bureaux, contains nothing which is either shocking or shameful." On the other hand, the opponents of the system, though in no way hostile to minority representation as such, objected to the uncertainty which was involved in the possibility that a committee might contain a majority of members from the minority in the Chamber. An exact working of the law of averages, of course, would cause a majority in the Chamber always to secure a majority in every bureau. Hence, the possibility would always exist for the majority entirely to eliminate the minority. Accordingly, if the minority had nothing of which to complain, certainly the majority would seem to have nothing. However, in spite of the seeming impossibility that the law of averages should so far fail to operate as to allow the minority in a Chamber to possess a majority in more than half of the bureaux, the statement was more than once made without contradiction in the Chamber that this had often happened. On political grounds, therefore, this criticism seems to have been sound.

The opponents of the bureaux based their objection to the results of lot and chance upon another principle. The complaint was made that so great a number of men of ability often happened to be drawn in certain bureaux that several valuable members were necessarily excluded from a committee in which their talents would be of the utmost value. In other bureaux, in turn, according to this contention, so few competent members might be found that Deputies wholly unfitted for the work in

¹⁰⁸ M. Baisan. See J. O., 1898, Débs. Ch., 16 novembre, p. 2218.

hand had to be chosen. "You will recognize," said a Deputy in 1902,¹⁰⁹ quoting Beaumarchais, "that it is shameful to have a system which obliges you to name a dancer where the need is for a mathematician." The weight of this objection, moreover, is emphasized by a simple quantitative consideration. Even with private bills left out of consideration, great numbers of measures require study at the hands of men of special knowledge rather than examination by committees of a particular political complexion.

In the very face of objections, election by the bureaux persisted, of course, for a long time; and the fact that such a system had worked and did work was an argument which weighed more heavily with those acquainted with the system than with outsiders. "It is truly difficult to understand," ran a report of the committee on the *règlement* in 1902,¹¹⁰ "that for so long a time chance has been able to continue one of the masters of the parliamentary system. One of the most eminent persons in the Chamber was recently telling of all the difficulty he had experienced in trying to explain this strange system, based on chance, to the Japanese delegates who had come to Paris in order to study our parliamentary organization. Their practical minds failed to comprehend such an inconsistency." Keen students of the *règlement* fully appreciated that the system of bureaux was wrong in its foundation and that a proper comprehension of this fact made criticism of details irrelevant. Thus, the author of the report of 1902 spoke his last word on this system at the beginning of the ninth legislature in 1906. "I consider it to be detestable," he said,¹¹¹ "simply and solely because it is based on chance. I hold that a method based on chance is from that very fact anti-scientific and absurd." This conviction had to become widespread before the system of election by the bureaux could be expected to give way to another method of election. The superiority of a new system had also to be generally recognized. Only these two considerations working together were finally successful in establishing the plan for nomination of the grand standing committees by the political parties. This method likewise had at the time, as it still has, its opponents; and a further requirement was that their objections be successfully met.¹¹²

The first difficulty which the method of nomination by the groups en-

¹⁰⁹ M. Grouzy. See J. O., 1902, Débs. Ch., 25 octobre, p. 2480. Cf. Faguet, *The Cult of Incompetence* (trans., London, 1911), p. 92.

¹¹⁰ Bretón Report (see Note 6).

¹¹¹ See J. O., 1906, Débs. Ch., 23 juin, p. 2046.

¹¹² For an exceedingly important examination of the various objections, see Joseph-Barthélemy, *op. cit.*, pp. 99 *et seq.*

countered in the Chamber was an instinctive opposition on the part of many members to the official recognition of political parties. The admitted difficulty of overcoming such a feeling was in reality the consideration which caused the committee on the *règlement* in 1902 to reject nomination by the groups in favor of nomination by delegation. The latter system was calculated, though more complicated in its actual working, to obtain the same results as the previous one. The claim was furthermore made that this instinctive opposition to the official recognition of the political parties was based on high principle; and some did not hesitate to declare such recognition unconstitutional. Thus, in 1910 objection was developed in most eloquent language⁴¹⁸ to writing into the *règlement* a principle which would in effect force those possessed of the commendable conception that they were the representatives of the whole country, and not merely of a part of it, to register themselves as members of a small group. "By what right," a veteran Deputy exclaimed, "in virtue of an internal *règlement* which you did not know yesterday, which did not exist, do you mean to impose on me or on one of my colleagues an obligation which I did not contract before my electors?" Such an attempt, he felt, was strongly to be condemned on the justest grounds, and he thus summarized his attack on the proposed system: "It is, in my opinion, to proceed in the very face of the rights of universal suffrage; it is to disarrange the working of our parliamentary institutions; it is to strike a blow at the prerogatives of each one among us."

A second objection, which seems at least equally strong, though it was never forcefully presented in the French Chambers as being of primary importance, condemns the nomination of committees by political parties on the ground that such a method tends to give to the study of all matters a political bias. Non-political groups are not recognized; and although a large percentage of measures introduced into the Chambers are such as to require study by men of specialized knowledge, all are referred to committees composed of members chosen for political motives.

Answers to these objections have not been wanting. The existence of political parties, it has been held, is an established fact; and parties are indeed a necessary part of the parliamentary system. No valid objection, then, can really be made to the official recognition of what exists in fact. The practical objection that some members belong to more than one party was solved by the *règlement* through the salutary stipulation

⁴¹⁸ For the speech of M. Lemire here quoted, see J. O., 1910, Débats, Ch., 2 juillet, p. 2369.

that no member may be listed as belonging to more than one party. The objection that some Deputies are unaffiliated with any political party or group has on the whole been satisfactorily dealt with. No one, the advocates of the system continue, can doubt the advantage of having all committees reflect exactly the sentiment of the whole Chamber. Proportional representation is considered by nearly all to be just.

The contention is made that many years of experience on the part of the Chamber of Deputies have fully justified the establishment of nomination of the grand committees by the political parties. In fact, a distinguished professor of constitutional law has not hesitated to affirm that the method works perfectly.¹¹⁴ On the whole, the effect of the system on the political groups seems to have been salutary. Their organization appears to have been strengthened; and this accomplishment has for a long time been regarded as particularly desirable for the better working of the parliamentary system in France. The increased stability of the parties and their proportional representation in the grand committees are held to increase ministerial stability. The committees, it is said, accept more readily than formerly the proposals of the Government, inasmuch as the strength of the coalition on which the Government depends for a majority is exactly reflected in the committees. Even when a change of ministry occurs, the effect is not seriously felt in the committees. They still equally well reflect the composition of the majority on which the new Government rests.

All things considered, the present method possesses over the system formerly employed of election in the bureaux a superiority which cannot well be doubted. The system of election in the bureaux, it is true, retains, as has been said, a certain number of strong and in some cases able supporters. This has been particularly true of the Senate, where certain committees which in the Chamber are listed as grand committees are not included among the grand committees precisely for the purpose of making possible the choice of them in the bureaux. Moreover, the system of election by the political groups is naturally associated with the system of grand standing committees; so that those who remain opponents of the grand committees and by the same token prefer the old system of special committees prefer likewise election in the bureaux. On the more positive side, advocates of election in the bureaux argue that election by the political groups causes delay in the commencement of legislative work, results in choice for reasons of friendship and

¹¹⁴ Duguit, *Traité de droit constitutionnel*, t. II, p. 344. The reference is to the first edition (Paris, 1911) of M. Duguit's well-known work. The opinion is not repeated in the second edition, perhaps not so much because the author had changed his view as because the two editions are constructed on very different scales.

seniority rather than of competency, and allows unpatriotic members to gain membership on such committees as those on foreign affairs and the army. All this, they assert, would be obviated by choice in the bureaux.¹¹⁵ On the other hand, the representation of the political parties in the grand committees according to their strength in the Chambers is particularly desirable in France and, at the same time, especially difficult to realize in practice, on account of the large number of these parties. In countries like England and the United States, with a tradition for two large parties, minority representation is a simple matter, easily to be obtained by an understanding between party leaders; but it is probable that in France, where a means must be sought for meeting a more complex situation, the regulation of the matter by the *règlement* is the simplest solution. With this much accomplished, the rest devolves upon the political parties themselves. If in their selection of committee members the parties are guided, in cases where special ability rather than political bias is at a premium, by a true desire to see the proper men in the proper places, they can do much for the improvement of government in France. As the organization of the political parties is strengthened and as discipline within the parties improves, the system of grand committees may be expected to profit from the method of committee selection in an ever-increasing degree.

Cumulation of Committee Mandates

The political parties in the French Chambers, when selecting the members of the grand committees to which they are entitled, must comply with a rule limiting the number of committees on which an individual member may serve. The *règlement* of each of the Chambers¹¹⁶ stipulates that no member of the Chamber may be elected to more than two of the grand committees. In the absence of a special provision, however, a member of two of the regular grand committees may be appointed to membership on any number of committees of a different nature. At present, no sanction exists for the rule that no member may serve on more than two committees, the assumption being made that the parties will take care not to violate the provision. Such violation is extremely unlikely to take place purposely; and an oversight would be certain to be detected somewhere. Accordingly, the question whether a member, appointed to a third committee when he is already

¹¹⁵ For interesting statements of these views, see J. O., 1924, Docs. Sén., S. E., no. 705 (12 décembre), p. 662, and J. O., 1927, Docs. Sén., S. O., no. 362 (28 juin), p. 510. / ¹¹⁶ Chamber, Art. 13; Senate, Art. 20. Cf. Pierre, *op. cit.*, no. 735.

a member of two, may be allowed, subsequent to his election to the third committee, to resign his membership on one of the other two could now scarcely arise. Hence, though such a question was raised on one or two occasions when the committees were elected in the bureaux, it is no longer of importance.

Throughout the history of the Third Republic various suggestions have been made with respect to the number of committees on which a member of one of the Chambers may properly serve. The intention is thus to obviate "accumulation in the same hands of mandates which might become sterile in spite of the experience of those who are possessed of them. The work of the committees absorbs more time than that of the public sittings; it exacts preparatory research and study; and it may, therefore, be understood that the same member cannot usefully belong to a large number of committees."¹¹⁷ Several provisions prohibiting such accumulation of mandates have from time to time been incorporated into the *règlements*. Moreover, frequent complaints were formerly made that such articles were little respected.

The history of this problem has naturally differed as there has prevailed in the Chambers a system of special committees or of grand committees. When both kinds of committees commonly existed side by side, provisions regulating the number of committees on which one member was allowed to serve had naturally to distinguish between special and grand committees.

In the Chamber of Deputies, the report on the first *règlement* in 1876 dwelt on the importance of limiting the number of committees to which a Deputy might be elected.¹¹⁸ The adoption by the Chamber, at the suggestion of this report, of a provision stipulating that a Deputy who had become a member of two committees might not be elected to membership on a third until one of the first two had named its reporter was not followed by satisfactory results. From the very beginning the committees either frankly violated this rule or else, in order to comply with its letter while disregarding its spirit, they adopted a practice of naming a reporter as soon as they were convened. The simple result was that their members became technically free to accept membership on other committees. This latter expedient, however, was not really necessary. In 1877, the very next year after the adoption of the *règlement*, complaints were voiced in the Chamber that the article with respect to the accumulation of mandates in the hands of individual Deputies was frequently flouted; and the President of the Chamber

¹¹⁷ Pierre, *loc. cit.*

¹¹⁸ See J. O., 1876, *loc. cit.*, p. 3920.

admitted that he was powerless to enforce the rule.¹¹⁹ Members seem commonly to have belonged to seven or eight committees at the same time. In order that respect for the whole *règlement* should not suffer from the violation of one of its provisions, the suggestion was actually made in the beginning of the year 1894 that the article dealing with this question should be suppressed.¹²⁰ The proposal was withdrawn in order to await the outcome of the effort to establish a system of grand committees, the hope being that the situation with respect to the accumulation of mandates would be improved by the adoption of this system. However, the system of grand committees not having been adopted, a veteran Deputy was in 1898 still constrained to complain that "the prohibition of the accumulation [of mandates], which has always been written into the *règlements*, has ever remained a dead letter."¹²¹ In the previous legislature, a remarkable situation had developed. Certain bureaux had actually been composed of members every one of whom belonged to all the committees to which he was entitled by the *règlement* to belong.¹²²

The state of affairs with respect to this matter seems to have been but little better when the Chamber began regularly to set up grand committees. Efforts at improvement, however, were not wanting. Thus, the provision by which members of the budget committee in the Chamber of Deputies were forbidden to accept membership on other committees until all its reporters had been named was of little value, inasmuch as the budget committee was one of those committees which regularly in practice named their reporters at the beginning of their studies. In 1889, a resolution was passed in the Chamber specifying that no member of the grand committee on customs could also be a member of the committee charged with the study of the budget for 1890. However, evidence that opinion in the Chamber was not unanimous in this matter is contained in a report of the committee on the *règlement* of the same year. In all of the several proposals introduced with a view to establishing a system of grand committees the assumption was made that the number of committees on which each Deputy might serve should be restricted to two. The report of the committee on the *règlement*, which opposed at that time all of these proposals, argued that a provision limiting to two the number of committees to which a member might belong would make the most competent members "prisoners"

¹¹⁹ See Pierre, *loc. cit.* Cf. also 1898 Graux Report (see Note 6).

¹²⁰ See J. O., 1894, Docs. Ch., S. O., no. 267 (16 janvier), p. 51; no. 315 (27 janvier), p. 97.

¹²¹ The quotation is from the Graux Report (see Note 6).

¹²² See *ibid.*

within the committees, inasmuch as competent members often possessed ability extending in more than two directions.¹²³

In the following year, complaints were again made in the Chamber that the rule regulating the accumulation of mandates had been flagrantly disregarded. The President of the Chamber, on the invitation of that body, suggested to the presidents of certain bureaux that these bureaux should be reconvened in order to reelect their members to the budget committee in such a way as to show regard for this provision of the *règlement*.¹²⁴

Following the unsuccessful effort at the beginning of 1894 to suppress the whole rule relating to the number of committees to which a Deputy might belong, some progress was realized later in the year. A resolution of June 12 introduced into the *règlement* one of the few changes of apparently far-reaching nature since the adoption of its provisions in 1876.¹²⁵ The provision of this resolution that *no member of the Chamber might belong to more than four committees* was amended by the substitution of the number three for four; but an important and necessary distinction was made between the grand and special committees. The provision stipulated that no Deputy might be at the same time a member of more than three committees, and of these only two could be committees composed of more than eleven members. In this class of committees consisting of more than eleven members the budget committee was, of course, included. A further change established as the point at which a Deputy might no longer be considered a member of a committee the distribution of reports on all matters with the study of which the committee had been charged. The rejection of such a proposal in 1876 on the grounds that a member ought really to be free between the time at which the final consideration of a measure was completed and the time at which a report on it was brought in was based on the assumption that a reporter would be named only after the discussion in the committee had been terminated. However, practice had shown that such an assumption was erroneous, and the Chamber preferred to accept a surer date.

In 1898, when efforts to establish a system of grand committees in the Chamber of Deputies seemed at last to be sure of success, a Deputy introduced into the Chamber an amendment providing that all members of the Chamber should be distributed among the grand committees and

¹²³ Cf. in these matters J. O., 1889, Docs. Ch., S. E., n^o. 173 (12 décembre), p. 337.

¹²⁴ See Graux Report (Note 6). Cf. also Pierre, *loc. cit*

¹²⁵ See J. O., 1894, Déb. Ch., 13 juin, p. 984. Cf. Moreau et Delpech, *Les Règlements des assemblées législatives* (2 vol., Paris, 1906-1907), t. II, p. 233; Pierre, *loc. cit*.

that no member should belong to more than one of these committees. When the first part of this amendment had been adopted, the author withdrew the second part. Moreover, the first part, having been recommitted to the committee on the *règlement*, never again emerged.¹²⁶ The provision of 1894, accordingly, continued to govern the question of the accumulation of mandates.

The resolution of 1894, by a somewhat similar survival, continued even after the establishment in 1902 of the system of grand committees in the Chamber to regulate the number of committees to which a Deputy might belong. An essential part of the system of nomination of the committees by delegation was the provision that no member of the Chamber might be designated for more than one grand committee.¹²⁷ The report of the committee on the *règlement* argued that this rule would be preferable to a provision allowing members to belong to two or more committees, "not only in order to permit all our colleagues to be members but also in order that each of them may be able conscientiously to fulfil the task which he has solicited." However, when this method of nomination was rejected by the Chamber, the existing regulation remained in effect with respect to the number of committees on which a member might serve. As all grand committees were composed of more than eleven members and as special committees became less and less important, the stipulation of 1894 really confined the activities of individual Deputies to a maximum of two committees. Though some members were excluded from membership in any of the committees, mathematically each Deputy was entitled to only one and one-fifth places; and some contended that few Deputies could hope for a position on two grand committees. This was argued in 1914 to militate against any proposal to subdivide any of the existing committees.¹²⁸

At the time of the adoption in 1915 of a new *règlement* by the Chamber of Deputies, more interest appears to have attached to securing the opportunity for capable members to serve on several committees than to ensuring that every Deputy should be a member of at least one committee. This explains the fact that a stipulation was quietly adopted providing that no Deputy might be a member of more than three of the regular grand committees.¹²⁹ However, the large numbers of newcomers to the Chamber in the first legislature after the World War

¹²⁶ For the events in connection with the proposal of M. Groussier, see J. O., 1898, Débs. Ch., 16 novembre, pp 2215, 2222.

¹²⁷ For the proposal and the report here quoted from, consult the Breton Report (see Note 6). For the action of the Chamber, see J. O., 1902, Débs. Ch., 18 novembre, pp 2362.

¹²⁸ Cf. J. O., 1914, Débs. Ch., 19 juin, p. 2491.

¹²⁹ See J. O., 1915, Débs. Ch., 30 janvier, p. 77. Cf. Pierre, *op. cit.*, no. 735 (Supp.).

were interested in precisely the opposite principle. They not unnaturally had a higher regard for having members secure membership on at least one committee than for arranging a way for Deputies to become members of several committees. Consequently, in 1920, a reduction was made, once more to two, in the maximum number of committees to which one Deputy might belong.¹⁸⁰ This has continued until the present day the ruling provision in the matter. However, in practice, competition for membership on a few of the grand committees is so keen that a member of such a committee cannot expect to belong to another grand committee. Moreover, among the numerous resolutions which are introduced into the Chamber during each legislature with a view to effecting changes in the *règlement* but which are not allowed to emerge from committee, examples may be found of proposals for dealing further with the question of the accumulation of mandates. Thus, a resolution introduced into the Chamber in December, 1921, proposed that no member might serve on more than one grand committee.¹⁸¹ In order to meet the objection that such a reduction would in certain cases deprive the committee of members whose specialized knowledge and extended experience would add greatly to the competency of the committees, the resolution provided that upon a demand made in writing to the President of the Chamber a member might attend, during the discussion of a particular measure mentioned in the application, all meetings of one of the grand committees. Such a member would have a voice in the discussions of the committee but no vote

In the Senate, when that body operated under the system of special committees, the state of affairs in respect of the accumulation of mandates was even worse than in the Chamber. Though in 1876 the Senate rejected the proposal of its committee on the *règlement* to permit Senators to belong to three rather than to two committees,¹⁸² the restriction contained in the *règlement* availed nothing. The provision was never modified so as to remedy the abuse whereby reporters were named in committees as soon as the committees were convened. Accordingly, limitation on the number of committees to which any Senator might be elected could not be said to exist. Some members, as a result, belonged to fantastic numbers of committees. This situation was described in 1920 by the reporter of the committee on the *règlement*.¹⁸³ "The *règlement* placing no limit on the accumulation of mandates by com-

¹⁸⁰ See J. O., 1920, D6bs Ch., 24 janvier, p. 52.

¹⁸¹ See J. O., 1921, Docs Ch., S. E., no. 3469 (2 décembre), p. 263. Cf. Breton, *op. cit.*, p. 151.

¹⁸² See J. O., 1876, *loc. cit.*, p. 3981.

¹⁸³ For the Cazelles Report, see Note 49.

mittee members," he wrote, "another disadvantage results from the excessively large number of special committees. Certain Senators are members of as many as ten committees. A count has been made showing that one of our colleagues has accepted seats in thirteen of them, another in fourteen, and another even in seventeen. This multiplicity of mandates renders regular attendance at meetings impossible. Various Senators are simultaneously president of several committees, and no one of them can easily convene each of the committees as often or as regularly as would be necessary for them all to execute their mandates with the desirable despatch. Legislative work is thus accomplished in shameful conditions." In 1911, on the occasion of the establishment of four grand committees, stipulation was made that no Senator could belong to more than one of these committees.¹⁸⁴ Finally, at the beginning of 1921, the regulation now in force was adopted. The report of the committee on the règlement suggested three as the maximum number of mandates which might accumulate in the hands of individual Senators, unless the committee on finance should be one of the committees, in which case the number was reduced to two. The report argued that this number would make it possible for the activities of all to have full play, while at the same time existing abuses would be avoided. During the preliminary discussion of the report, certain Senators objected, according to their predilections, that the limit was either too high or too low. The former opinion, however, prevailed; and an amendment reducing the number to two was adopted by the committee on the règlement and passed by the Senate. This amendment strangely enough made an exception of the committee on finance; but, the objection having been made that such a distinction "led to the belief that the committee on finance was that which had least to do," this committee was included with the rest of the grand committees.¹⁸⁵

Committee Attendance

Perhaps no question connected with the practical working of a system of legislative committees is of greater importance than that of attendance. "To be present regularly," asserted the report of the committee on the règlement in the Senate in 1876, "at the sittings of the bureaux and of the committees and to take part in their labors are among the number of essential duties of every Senator."¹⁸⁶ No matter

¹⁸⁴ See J. O., 1911, *loc. cit.*

¹⁸⁵ In addition to the Cazelles Report, reference should be made to J. O., 1920, Débats Sén., 26 novembre, p. 1807; J. O., 1921, Débats Sén., 19 janvier, pp. 21, 26.

¹⁸⁶ Corné Report (see Note 99).

how accurately the composition of a committee may reflect the composition of the whole Chamber with its majorities and its coalitions, irregular attendance will in practice falsify the results obtained; and however fortunate a committee may appear through having on its list of members the names of many competent Deputies or Senators, such an advantage will manifestly avail little if the members are not regularly present at the meetings of the committee. Ideally, the conscientiousness of individual members should be sufficient to obviate the possibility that the work of committees should suffer for lack of active members. In practice, various expedients have had to be attempted, in order to improve attendance at meetings. Success, however, has been extremely doubtful. In France, at present, the Senate is almost altogether without any stipulation of the *règlement* dealing with this matter. On the other hand, in the Chamber of Deputies, several such rules are to be found among the provisions of the *règlement*.

In practice, the simplest expedient for ensuring attendance is the establishment of a quorum. In the Chamber of Deputies, a deliberation in committee may take place regardless of the number of members in attendance; but the *règlement* stipulates¹⁸⁷ that in order for a vote to be valid, one-half the number of members, that is, twenty-two, must be present. Furthermore, the fact of failure to vote in a committee on account of lack of a quorum must be specially mentioned in the *Journal officiel*. However, if lack of a quorum results in the impossibility of taking a vote, the question must be expressly placed on the order of the day for a vote at the next meeting, which may or may not take place on the same day. At this time the vote is valid, no matter what the number of members present. In practice, the question of the presence of a quorum is apparently never raised. However, this flagrant disregard of the *règlement* is technically softened by the fiction that a committee member whose whereabouts in the building is known is considered to be present in the committee room.¹⁸⁸ In the Senate the *règlement* is entirely silent on these matters.

The article of the *règlement* which in the case of the committees in the Chamber of Deputies establishes a quorum for voting contains two provisions setting up sanctions for non-attendance on the part of individual members. The first of these provisions requires that the names of committee members present, absent, or excused shall be mentioned in the *Journal officiel*. In practice, the functionaries of the Chamber

¹⁸⁷ Art. 30.

¹⁸⁸ Cf. Joseph-Barthélemy et Paul Duez, *op. cit.*, p. 549; Joseph-Barthélemy, *op. cit.*, pp. 138-140.

faithfully carry out this provision; but the efficacy of the publication is extremely problematical. The second provision stipulates that any member of a committee who without official excuse is absent five consecutive times within a period greater than a month shall automatically be deprived of his membership in the committee. The Secretariat of the Chamber must when notified of the facts pronounce the vacancy thus caused; and the political party which formerly elected this member must proceed to choose his successor. The Deputy whose place has just been filled shall not be immediately reeligible. These several stipulations have apparently never been applied. The only similar provision contained in the *règlement* of the Senate is the stipulation¹³⁹ that the names of committee members present at meetings shall be published in the minutes of the committees.

The provisions of the *règlement* of the Chamber of Deputies which have just been mentioned are, in their present form, of very recent origin. On the other hand, the problem of non-attendance at committee meetings has for a long time been recognized in France. The report of the committee on the *règlement* in the Chamber of Deputies in 1876 suggested that a quorum of one-third the membership of the bureaux should be established for the validity of their activities. This provision was adopted without opposition. Furthermore, the minutes both of the bureaux and of the committees were required to mention the names of members present. During the public discussion of this suggestion the reporter opposed two amendments which were proposed to it and by his opposition secured their rejection. The first amendment proposed that the minutes of the bureaux and of the committees should mention the names of those excused and unexcused, and the second would have had three consecutive unexcused absences mentioned in the minutes and published in the *Journal officiel*. Evidence is not lacking which suggests that the report of the committee on the *règlement* assumed the stipulation of a quorum for the bureaux to be applicable to the committees; but the *règlement* was silent on the matter, and a determination was never made whether or not the stipulation should by analogy be extended to committee meetings.¹⁴⁰ Any uncertainty which might exist was cleared away in 1888 by a resolution dealing directly with the question.¹⁴¹ For a vote to be valid in committee, the presence of one-half the members was made necessary. In a further provision, distinction was made in this respect between the budget committee and other com-

¹³⁹ Art. 23.

¹⁴⁰ For these matters, see J. O., 1876, mai-juin (annexe no. 152), p. 3920.

¹⁴¹ See J. O., 1888, Débats. Ch., 19 juin, p. 1274. Cf. Moreau et Delpech, *op. cit.*, p. 231.

mittees. In the case of the budget committee, provision was made that when a vote could not be taken for lack of a quorum, the question was to be placed on the order of the day for the next sitting, at which time no quorum would be required. For other committees, no such stipulation was established. In this way, a quorum of one-half the members of committees continued the rule throughout the early efforts to establish a system of grand committees; but non-attendance was always a difficulty, and there were doubtless Deputies who did not know of the existence of a quorum. In the debate of 1898,¹⁴² a member criticized the committee on the *règlement* for establishing a quorum of one-half the members for the proposed grand committees; and when the president of the committee reminded the speaker that such a regulation was already contained in the *règlement*, the speaker protested that it would be preferable for the *règlement* to contain no such provision, since it was never observed. "If you maintain this provision," continued the Deputy, "there will result what I have many times seen. It often happens that out of thirty-three members only a dozen are in attendance. They work as if they were thirty-three. They work conscientiously. But an occasion arises when the *règlement* must be observed. Half of the members of the committee plus one are necessary for a vote. The assembly call is beat through the lobbies. A search is made for colleagues who were unable to attend the committee meeting because occupied elsewhere, and they are made to vote against conclusions or proposals of which they are absolutely without knowledge. The result is that colleagues who have worked, who have put all their zeal and all their assiduity into bringing a serious study to a suitable conclusion, are defeated by colleagues, assuredly very loyal and very sincere, but who do not know what the question is. They demolish the proposed law because they have been told that it must be demolished." During the same debate, the assertion was made by another Deputy that the only really efficacious rule would be to drop members who were absent from five or six meetings. Another aspect of the question was dealt with a few days later by the reporter of the committee on the *règlement* in his reply to the suggestion that in the case of certain committees of forty-four members which were proposed the quorum should be reduced.¹⁴³ "Reduction of the quorum," he said, "will not cause majorities to be less unstable. It will always happen that out of a committee of forty-four members there will one day be sixteen members in attendance and that the next day there will again be sixteen members

¹⁴² J. O., 1898, *loc. cit.*, pp. 2214 *et seq.*

¹⁴³ *Ibid.*, 30 novembre, p. 2319.

of a different opinion, because the sixteen present at the meeting on the first day will not be the same as those at the following meeting." The assertion was made that this very thing in reality happened every day under the existing system. However, in spite of the recognition of this fact, a resolution proposing that the names of committee absentees be published in the *Journal officiel* was rejected. Only in 1903 was a proposal passed that the names of members absent be published; and even then publication was to be made only in the minutes of the committees.¹⁴⁴ The adoption of the new *règlement* by the Chamber in 1915 was the first occasion on which any change in these matters was realized. A statement by the reporter of the committee on the *règlement* in 1902 that a small number of members did all the work in the committees merely affirmed what every one knew, but no remedy was attempted or was apparently even thought possible. In 1915 the quorum for the grand committees was actually reduced to one-fourth the membership, or eleven, though this recognition of the unsatisfactory state of affairs was to some extent theoretically offset by the stipulation that members present, absent, and excused should be published in the *Journal officiel*.¹⁴⁵ Again, in the following year, stipulation was made that a political party might declare one of its members no longer to belong to a committee if he were absent ten times successively without excuse.¹⁴⁶ This provision was for practical purposes worthless.

The situation, then, at the end of the World War was briefly this. Responsibility for non-attendance was for the most part placed by the *règlement* on the political parties. The vote in committee on a particular measure might be postponed from one meeting to the next through the failure of eleven members to be present; but, so far as the individual Deputy was concerned, he might, if indifferent to having his name appear in the *Journal officiel*, neglect with impunity to attend meetings of his committee nine times out of every ten, and even more often if he had nothing to fear from his party. This situation was recognized to be altogether unsatisfactory. "We know, indeed," wrote the reporter of the committee on the *règlement* in 1920,¹⁴⁷ "that non-attendance rages in the committees as seriously as in the public sittings, and in a fashion perhaps more injurious." Accordingly, the changes introduced into the *règlement* in that year were calculated to be of a more serious nature. The stipulations were with one exception those

¹⁴⁴ J. O., 1903, Débs. Ch., 17 juin, p. 1991.

¹⁴⁵ Cf. J. O., 1915, *loc. cit.*, pp. 72 *et seq.* Cf. also Pierre, *op. cit.*, no. 746 (Supp.).

¹⁴⁶ Cf. J. O., 1916, Débs. Ch., 25 février, p. 373.

¹⁴⁷ J. O., 1920, Débs. Ch., 24 janvier, p. 53.

which exist at the present time. The provision requiring that at least a month must elapse between the first and fifth absences which result in a committee vacancy was added in 1932.¹⁴⁸

The report of 1920 vigorously supported raising the quorum of the committees once more to one-half the membership.¹⁴⁹ "When," ran the report, "the question concerns extremely serious decisions involving the future of the country through expenditures of several milliards, it is not acceptable that they should be taken by six votes to five out of forty-four members. This insufficient figure for the quorum favors those alternating and contradictory majorities which have often been stigmatized as one of the sores in the labor of our committees. The figures concerning those present being published in the *Journal officiel*, people establish on these indisputable bases, for the purpose of furnishing material for the anti-parliamentary campaign, statistics which are scarcely edifying." Concerning the option on the part of political parties to declare after ten consecutive absences the removal of their members from committees, the report continued: "In these conditions, the sanction is inapplicable and in fact has never been applied." The belief was that by reducing to five the absences which would involve the removal of a member and by eliminating from this removal its optional character, great progress would be realized. Improvement, however, proved very doubtful. At the end of 1921 the assertion could still be made that "all those who have followed attentively the work of the grand permanent committees of the Chamber of Deputies have been able to verify how few are the members of these committees who are regular in their attendance at meetings."¹⁵⁰ Since that time, though sporadic proposals have been made both for raising and lowering the quorum, the provisions of the *règlement* remain unchanged. Likewise, the practical situation has apparently not appreciably improved.

In the Senate, no quorum for committees has ever existed. The stipulation of the *règlement* which provides that the minutes of the committee meetings shall mention the names of those members present was adopted in 1876 and remains unchanged to-day. The suggestion was made in 1904 that a quorum of one-half the members of committees, though not mentioned in the *règlement*, could be exacted through analogy with and reference to practice existing previous to the foundation of the Third Republic; but the question has never been fully de-

¹⁴⁸ J. O., 1932, Débs. Ch., 25 mars, p. 1702

¹⁴⁹ Joseph-Barthélemy Report (see Note 98).

¹⁵⁰ J. O., 1921, Docs. Ch., S. E., no. 3469 (2 décembre), p. 263.

terminated.¹⁵¹ At all events, attendance has apparently been far from good. "In the committees," said a Senator in 1920,¹⁵² "there are rarely any members. It is not because you decide that the committees shall have thirty-six members that attendance will be in greater numbers. We shall continue as in the past not to flock to them but to be always in very irregular attendance." The same Senator drew before the Senate a frank, if somewhat dark, picture of the situation. "I have seen some [committees] where there were two present; and there are grand committees which in the end come to be reduced to a president, a secretary, and an exceptionally zealous member. I am telling you what you are ordinarily kept from learning; for the desire is to cause the electors to believe that if you are not more often speaking from the tribune, it is because you are wearing yourselves out in the committees. (Smiles.) This legend ought to disappear. Those whose work consists of speaking from the tribune are those who likewise work in the committees, and vice versa."

Organization of Committees

The règlement of the Senate and that of the Chamber of Deputies stipulate¹⁵³ that all committees shall be convened by the Presidents of their respective Chambers "without delay." In practice this means that the committees meet for the first time on the day following their election. However, in exceptional circumstances, the President may call a committee together on the same day as that on which it has been elected. Furthermore, if the members of a committee join unanimously in requesting that their first meeting be postponed for two or three days, the President will comply with their wish.¹⁵⁴

This stipulation is of considerable importance. Normally a measure must receive preliminary consideration at the hands of a committee before it can be discussed in a public session. Accordingly, if there should be delay in calling together the committees, the Chamber would find itself without material for its work. This consideration caused the provision for the immediate convening of the committees by the President of the Chamber to be introduced in 1876 into the respective règlements of the Senate and of the Chamber of Deputies. There it has remained unchanged to the present day. Furthermore, the Presidents of the Chambers have scrupulously observed the obligation which thus de-

¹⁵¹ Cf. Pierre, *op. cit.*, no. 746 (Supp.).

¹⁵² For the remarks of M. Delahaye here twice quoted, see J. O., 1920, Débats. Sén., 26 novembre, p. 1809.

¹⁵³ Senate, Art. 23; Chamber, Art. 16. Cf. Pierre, *op. cit.*, nos. 743, 745.

¹⁵⁴ Cf. J. O., 1894, Docs. Ch., S. O., no. 629 (17 mai), p. 815 (see Note 85). Cf. also Pierre, *op. cit.*, no. 743.

volves upon them; so that a resolution introduced into the Chamber of Deputies in 1894, which proposed to establish a maximum delay for the convocation of the committees, was asserted by the reporter of the committee on the règlement to be altogether unnecessary in view of the existing regulation and of the actual practice.¹⁵⁵

Provisions of the règlement both in the Chamber of Deputies and the Senate stipulate¹⁵⁶ that the election of the permanent officers of committees shall be conducted according to the rules which prevail when the officers of the Chambers as a whole are chosen. This means that when a committee has been convened by the President of the Chamber, the eldest member present takes the chair as temporary chairman and the youngest member acts as secretary. Thus temporarily organized the committee proceeds to the election of its permanent officers. Each office is filled in a separate election. No officer can be declared elected on a first balloting unless he obtain a clear majority of all votes cast. The same is true of a second balloting where it is made necessary through lack of majority on the first ballot. If no majority is obtained on a first or second ballot, the candidate with the highest number of votes is declared elected on the third ballot. In case of an equal division of votes, the eldest of the members in the competition is declared elected. According to the règlement the vote is taken by secret ballot. This secrecy is said to result at times in maneuvering which would be more unlikely if attended by publicity.¹⁵⁷ On some occasions, especially in years following the first year of a legislature, the rule of secrecy is technically violated by the practice of electing certain officers by acclaim.¹⁵⁸

In the Chamber of Deputies the officers of the grand committees consist of a president and of such vice-presidents and secretaries as may be determined upon by the committee involved. The committee likewise names from time to time one or more reporters.¹⁵⁹ The règlement furthermore specifies¹⁶⁰ that each of the grand committees shall be provided with its own specialized and permanent personnel. The committee on finance, on account of its great importance and of the special nature of its work and its organization, has always been particularly well provided for in this respect; but for each of the grand

¹⁵⁵ Cf. J. O., 1894, *loc. cit.*

¹⁵⁶ Chamber, Art. 14 (cf. Art. 8); Senate, Art. 23 (cf. Art. 6). Cf. Pierre, *op. cit.*, no. 745.

¹⁵⁷ Cf. J. O., 1925, Docs. Ch., S. O., no. 1116 (23 janvier), p. 99.

¹⁵⁸ See various numbers of *Bulletin des commissions*, e. g., no. 13, 24 janvier, 1933. Cf. Joseph-Barthélemy, *op. cit.*, pp. 116-117.

¹⁵⁹ *Règlement de la Chambre*, art. 29.

¹⁶⁰ Art. 16.

committees at present there is at least an administrative secretary furnished by some one of the services of the Chamber.¹⁰¹ In 1928 a re-organization was made of the Service of the Committees. As a result, various kinds of information are at a central bureau held at the disposal of the members of the Chamber. This information includes that concerning committee hearings. A weekly *Bulletin des commissions*, which is distributed to members, gives a summary account of the discussions and decisions of the several committees. The Chief of the Service of the Committees or one of his assistants remains at the disposal of members during public sittings.¹⁰²

In the Senate the officers of the grand committees are, in addition to the president, one or two vice-presidents and one or two secretaries, depending on the size of the committee.¹⁰³ The committee likewise names reporters for the various measures submitted to it. The règlement stipulates that these reporters must be named within one month of the reference to the committee of the measures to be reported.

Originally, in 1876, the règlements of the two Chambers provided¹⁰⁴ only for a president and secretary. However, as grand committees began to supplant the smaller special committees and as the committees seemed to require a more complex organization, the number of officers naturally increased. Thus, the new règlement of the Chamber of Deputies adopted in 1915 stipulated that each grand committee should choose, in addition to its president, four vice-presidents and six secretaries.¹⁰⁵ This provision was modified in 1932 so as to leave to the grand committees the determination of the number of officers other than the president.¹⁰⁶

The grand committees are free to hold their meetings at any time they see fit, including the time at which the Chamber is in public session. Moreover, they may, if the occasion demand, meet elsewhere than in the Palais Bourbon and in the Luxembourg. Thus, with respect to this second privilege, the règlement of the Senate specifically states¹⁰⁷ that "the committees may, in exceptional cases, convene in the ministries for their preparatory work"; and though the règlement of the Chamber is silent concerning this matter, there is nothing to prevent the com-

¹⁰¹ Cf. Joseph-Barthélemy, *op. cit.*, pp. 173 *et seq.*; Bleton, *op. cit.*, pp. 197, 198.

¹⁰² See for these matters *Bulletin des commissions*, no. 1, 28 juin, 1928. Cf. also *Règlement de la Chambre*, art. 131 n.

¹⁰³ *Règlement du Sénat*, art. 23.

¹⁰⁴ Chamber, Art. 25; Senate, Art. 23. See Bonnard, *Les Règlements des assemblées législatives de la France depuis 1789* (Paris, 1926), pp. 470, 437.

¹⁰⁵ See Bonnard, *op. cit.*, p. 507.

¹⁰⁶ J. O., 1932, *loc. cit.*, p. 1704.

¹⁰⁷ Art. 28.

mittees of the Chamber from exercising the same privilege.¹⁶⁸ Furthermore, the committees of both Chambers sometimes, though not frequently, hold meetings elsewhere than in Paris. In such a case, the previous consent of the Chamber is usually obtained.¹⁶⁹

Although committees may and do meet during the public sittings of the Chambers, the opposite practice is encouraged by the *règlement* of the Chamber of Deputies, which stipulates¹⁷⁰ that the Chamber shall devote "at least one day a week to the work of the committees." A further provision¹⁷¹ sets aside Wednesday for this purpose. In the case of the Senate, though the *règlement* is silent in the matter, practice has determined a similar situation. The Senate not only follows the Chamber in holding no regular meeting on Wednesdays; it also often fails to sit on Saturdays and Mondays, thus affording additional time for the work of its committees.¹⁷²

When the Chamber of Deputies adopted in 1876 the article of the *règlement* which determines that a special day shall be devoted in the Chamber of Deputies to the work of the committees, the committee on the *règlement*, in making the suggestion, pointed out that such a practice was already well established in the Chamber.¹⁷³ In spite of this, however, the report went on to say, the Chamber had formerly been forced on occasion to adjourn because its committees had been unable for lack of time to furnish the Chamber with material for discussion in public sittings. Not only, continued the report, did foreign parliaments set aside special days for work in committees, but the National Assembly had failed to introduce such a provision into its *règlement* only because it had found itself obliged to turn its attention to other matters of the greatest urgency. The Deputies who in 1876 proposed that more than one day each week should be given exclusively to the work of committees considered, of course, that the matter was of much importance. Thus, a Deputy who introduced an amendment providing that three days a week should be substituted for one day said in support of his amendment: "I believe that we lose a great deal of time as a result of the prejudice, which is current in French Assemblies and in the country, that we must have public sittings in order to accomplish anything. That is an error. The public session is an affirmation of preparatory labors of mature and serious reflection and study in the com-

¹⁶⁸ Cf. Pierre, *op. cit.*, no. 744.

¹⁶⁹ Cf. *ibid*.

¹⁷⁰ Art. 26.

¹⁷¹ Art. 94 *bis*.

¹⁷² Cf. Pierre, *op. cit.*, no. 760.

¹⁷³ J. O., 1876, *loc. cit.*

mittees and, in certain cases, in the bureaux." ¹⁷⁴ Three days, however, were judged by the Chamber to be too many, and one was adopted. ¹⁷⁵ The decision that Wednesday should be the day set aside has remained in effect until the present day, though at times the addition of another day, either Friday or Saturday, has given the Chamber two days specially devoted to committee work. ¹⁷⁶ The règlement of the Chamber, as adopted in 1876, added the proviso that "a resolution in the opposite sense may always be taken if the urgency of some deliberation demand it." This part of the article was omitted in the new règlement of 1915. When objection was taken to the omission and an explanation was requested, the reporter of the committee on the règlement pointed out that the Chamber possessed the power to pass such a resolution in the absence of a stipulation of the règlement and that the provision was accordingly unnecessary. ¹⁷⁷ "Furthermore," he added, "the committee considered it preferable not to seem, by this superfluous provision, to suggest the violation of the article which reserves one day a week for the working of the committees."

The same article of the règlement ¹⁷⁸ which stipulates that in the Chamber of Deputies the grand committees shall be provided with a specialized and permanent personnel likewise requires for these committees "a special and permanent place as well as the necessary instruments of work." The règlement of the Senate, ¹⁷⁹ though in somewhat different words, also requires ¹⁸⁰ that the grand committees of that body shall have their special rooms for meeting. Each règlement, furthermore, requires the Secretariat of the Chamber involved to supply to the committees all papers and documents connected with proposals which are being studied by them. These papers and documents, together with the minutes which are kept by the committees themselves, remain the property of the committees as long as their members have use for them. However, all members of the Chamber, provided nothing is taken away from the meeting place of the committees and provided that there is no actual interference with the work of the committees, have access to the papers, documents, and minutes in the possession of the committees. When the committees have finally disposed of the questions

¹⁷⁴ *Ibid.*, p. 4041.

¹⁷⁵ *Ibid.*, p. 4246.

¹⁷⁶ Pierre, *loc. cit.*

¹⁷⁷ J. O., 1915, Débs. Ch., 5 février, p. 92.

¹⁷⁸ Art. 16.

¹⁷⁹ Art. 28.

¹⁸⁰ Chambet, Art. 27; Senate, Arts. 24, 25. Cf. Pierre, *op. cit.*, nos. 727, 737 bis, 755, 778, 779, 780.

with which the papers, documents, and minutes are concerned, the latter are placed permanently in the archives of the Chamber.

As the substitution of grand committees for special committees in the French Chambers became more and more frequent, a natural tendency manifested itself for the committees to secure for themselves the material advantages which seem to be the peculiar attributes of permanency. The more enthusiastic advocates of the system of grand committees insist that the committees shall in ever-increasing degree have at their disposal all the material advantages which may be conceived as calculated to improve the conditions in which their special study is conducted.

Not only was the stipulation introduced into the *règlement* in 1876 that all papers and documents connected with the work of committees should be supplied to them; the attempt seems to have been made at that time, so far as was consistent with the system of special committees, to secure for each committee a special place for its meeting and the means of properly preserving papers and documents in its possession. The report of the committee on the *règlement* both in the Senate and in the Chamber of Deputies dwelt on the importance of this question.¹⁸¹ The point was made that previous to that time, through change of secretaries and other causes, papers and documents, in the absence of the possibility of keeping them under lock and key, often became scattered and were sometimes lost. At the same time, the reports favored giving members access to papers and documents handed over to committees. In the Chamber of Deputies, an amendment was added, allowing members access to the minutes of the committees as well. The same possibility, it is interesting to note, was not realized in the Senate until 1920, and then only with difficulty.¹⁸² In spite of these regulations and of the tendency for several of the more important committees, notably those on finance, to fare better than others,¹⁸³ the situation was recently asserted to be far from satisfactory. In 1920, a veteran Deputy¹⁸⁴ complained in the Chamber that "the committees cannot continue to work without personnel, without offices, without archives, without records, and with the ridiculous means at present at their disposal." As a result, a resolution was passed containing the present pro-

¹⁸¹ For the Corne and Millaud Reports, see Notes 99 and 140.

¹⁸² J. O., 1921, Débs. Sén., 19 janvier, p. 27.

¹⁸³ See Ch. VI, *infra*. Cf. also Joseph-Barthélemy, *op. cit.*, pp. 172 *et seq.*; "Le Procès de la commission des finances," in *Mélanges R. Carré de Malberg* (Paris, 1933), pp. 243-244.

¹⁸⁴ M. Louis Marin. See J. O., 1920, Débs. Ch., 28 mai, pp. 1667-1668.

visions, giving to the committees their special and permanent advantages. The proposers of an unsuccessful resolution at the end of 1921 pointed out the need of carrying into effect the terms of the existing provisions.¹⁸⁸ At the present time, a relatively constant demand for improvement of the material organization of the committees seems to manifest itself.¹⁸⁹ However, such things entail additional expenditure; and, in view of the tendency of some legislatures to economize in such matters while lavishing funds in other directions, progress is necessarily slow.

In the Senate, the reporter of the committee on the *règlement* in 1920, both in his report and during its public discussion, described in similar terms the condition of affairs in that body.¹⁸⁷ "It is very exceptional," he wrote, "that [the committees] can have a permanent meeting-place. Their archives are scattered; and the works treating current questions which form the object of their labors are dispersed among the shelves of the library of the Senate. No one of them has at its disposal a complete and classified collection of the legislation which falls within its sphere, or the necessary means of information and study, or, above all, an organized secretariat. They should be provided for by a formal provision of the *règlement*." Here again, however, the stipulations of the *règlement* can be expected to make only slow headway against the efforts at economy in respect of the internal expenses of the Senate.

Miscellaneous Committees

The power of the Chamber of Deputies and of the Senate, recognized by provisions of the *règlement* in each Chamber, to constitute at any time committees other than those contained in the lists of regular grand standing committees is, as has been seen, by no means inoperative. This means in practice not only that these lists are at times altered but also that the normal committee organization is always supplemented by a certain number of what may be regarded as miscellaneous committees. These committees, with one or two exceptions, are set up by the simple expedient of a special resolution. This takes place whenever one of the Chambers for some reason or other deems that its interests

¹⁸⁸ For this proposal of M. Paul Reynaud and about 230 other Deputies, see J. O., 1921, Docs. Ch., S. E., no. 3278 (28 octobre), pp. 96-97.

¹⁸⁹ Compare, for example, J. O., 1924, Docs. Ch., S. O., no. 201 (3 juillet), p. 1048; and *Le Temps*, 30 janvier 1930 ("Faut-il modifier les méthodes de travail du parlement?").

¹⁸⁷ For Cazelles Report, see Note 49. Cf. also J. O., 1920, Débs. Sén., 26 novembre, p. 1806.

will be better served if some particular matter is not referred to one of the grand committees.

In the Chambers of to-day, committees which form no part of the system of grand standing committees¹⁸⁸ may be regarded as being *special* in one of two senses. In the first place, the Chambers set up special committees in the historical sense of the expression, that is to say, committees which are usually smaller than the grand standing committees and which normally exist for the study of a particular question. When the study has been completed, the life of the committee naturally comes to an end. At the present time, relatively few committees of this sort are employed. On the other hand, a few committees, as has been seen, exist which, like the grand committees, are standing committees in the sense that they are named for a definite period of time but which differ from the grand committees in possessing a specialized, as contrasted with a general, jurisdiction. Committees of this kind are specially provided for in the *rèlements* and therefore present a case of special committees which are exceptionally not set up by special resolution. Furthermore, the provision of the *rèlements* of the two Chambers which allows a particular measure to be submitted to a special committee already in existence is not infrequently applied. As a consequence, if from the nature of things this procedure may be anticipated, the committee will not differ greatly, except that it is not normally established by the *règlement*, from the regular grand committees. An important example of this sort of committee is the committee on the *règlement*. This committee is not specially mentioned in the *règlement*; but inasmuch as there are in normal conditions many proposals for change in the working rules of the Chambers, the committee tends to become in large measure a standing committee.

The several standing committees of a special nature which were established in 1876 were for the most part of either annual or monthly duration. In both Chambers, for example, a committee on accounts was set up at the beginning of each year. It continued in existence until the beginning of the following year. These committees on accounts are still maintained at the present time by the *rèlements* of both Chambers.¹⁸⁹ The four monthly committees originally mentioned in the *rèlements* of the Chambers, namely, the committee of initiative, the committee on departmental and communal affairs, the committee on

¹⁸⁸ For the various miscellaneous committees existing at a given time, the several *fascicules of Etat des travaux législatifs de la Chambre des députés* may be consulted.

¹⁸⁹ Chamber, Art. 132; Senate, Art. 17.

petitions, and the committee on leaves of absence, have had varying experiences. The committee of initiative no longer exists in either Chamber. The usefulness of these committees was at best doubtful in any conditions; their existence is inconsistent with the system of grand committees now established in both Chambers.¹⁹⁰ The committee on departmental and communal affairs has been raised to the rank of a grand committee. On the other hand, no special committee with the duty of examining applications for leaves of absence exists at present in either Chamber. The functions of this committee have devolved upon the Secretariat of each Chamber.¹⁹¹ Lastly, the committee on petitions has survived in the Senate; but in the Chamber of Deputies, such petitions as are brought into Parliament are at present distributed among the various grand committees.¹⁹²

The committee on accounts¹⁹³ resembles within a smaller sphere the committees on finance in the two Chambers, and membership on it has been said to be valuable preparation for membership on the great finance committees. At the present time, the committee on accounts continues to be, as it was in 1876, of annual duration; and though the règlement of the Senate permits the extension to this committee of the system of election employed for the grand committees, it is still regularly elected by the bureaux in both Chambers. The size of the committee on accounts has remained unchanged in the Chamber of Deputies, being composed of one member from each bureau, or of eleven Deputies. In the Senate, on the other hand, the size of the committee has been doubled; so that it is at present composed of two members chosen by each of the bureaux, or of eighteen Senators. This committee, as its name implies, has as its function the verification and auditing of such expenditures as are made for the current needs of the Chambers. The activities of the committee are regulated by certain general stipulations of the règlement¹⁹⁴ and by certain special rules adopted by the committee itself and sanctioned by resolution of the Chambers. In the Chamber of Deputies, no official of the Chamber may be a member of the committee on accounts. However, in each Chamber certain of the officers, known as Questors, prepare the annual budget of the Chamber;

¹⁹⁰ Cf. Ch. V, *infra*.

¹⁹¹ *Règlement de la Chambre*, art. 129; *Règlement du Sénat*, art. 104. Cf. Pierre, *op. cit.*, no. 491.

¹⁹² Cf. Ch. V, *infra*.

¹⁹³ This committee is not to be confused with the grand committee on closed accounts (to which title is now added "and of economies"). This grand committee appears to be considered something of a joke in France and is hence in no way to be compared in importance with the corresponding Committee of Public Accounts in England. Cf. Joseph-Barthélemy et Paul Duez, *op. cit.*, p. 800.

¹⁹⁴ Chamber, Arts. 132-133; Senate, Arts. 132-135.

and this budget is approved by the Chamber after an examination at the hands of the committee on accounts. The actual moneys must of course be granted by law. However, according to long-established tacit agreement, neither Chamber concerns itself with the budget of the other; and the two budgets pass undiscussed as a part of the annual budget law.¹⁸⁵ This system seems to work excellently, and waste is apparently eliminated.

The committee on petitions in the Senate is composed of nine members, of whom one is chosen by each of the bureaux for a period of one year.¹⁸⁶ This committee, therefore, though formerly elected for one month, is now, so far as duration is concerned, uniform with the committee on accounts, the committee on finance, and the grand committees.

Election returns in France are at the present time still examined by the bureaux of the Chambers.¹⁸⁷ Were it not for this function which remains to them, the bureaux would be practically altogether election divisions. In practice, each of the Chambers may proceed to its normal business only after a majority of its members have been seated, and for this reason considerable importance attaches to the immediate choice of the bureaux at the beginning of the legislature. The returns of all the members of a Chamber are handed over to them, an alphabetical division being made among the various bureaux. In each bureau, small committees of not less than five members are chosen by lot; and these committees examine the election returns referred to them and report to the Chamber. Serious questioning of an election is of course exceptional. The small committees regularly recommend the seating of the member whose returns have been examined.

Somewhat similar to the exceptional cases in which a committee may be formed by the fusion of two or more committees in one of the Chambers or by the selection of several members from two or more committees is the case of a committee composed of several members from each of the two Chambers. This form of committee, which may be called a conference or joint or mixed committee, is, though recognized by the règlement¹⁸⁸ of each of the Chambers, altogether exceptional in France.

¹⁸⁵ Pierre, *op. cit.*, no. 1177; Joseph-Barthélemy et Paul Duez, *op. cit.*, pp. 524-525; Jèze, *Cours de science des finances et de législation financière française. Théorie générale du budget* (6^e éd., Paris, 1922), pp. 279-280.

¹⁸⁶ *Règlement du Sénat*, art. 17.

¹⁸⁷ *Règlement de la Chambre*, Ch. I (arts. 1-6); *Règlement du Sénat*, Ch. II (arts. 8-10). Cf. Pierre, *op. cit.*, nos. 371 *et seq.*

¹⁸⁸ *Chamber*, Arts. 107-110; *Senate*, Arts. 127-131. Cf. Pierre, *op. cit.*, nos. 676-678.

Extra-parliamentary committees in France are of fairly frequent occurrence,¹⁹⁹ and some of them are of considerable importance. However, they are not strictly speaking a part of the committee system of either of the Chambers. They are established and their constitution is determined by a law or by an executive decree. Whichever may be the case, a certain number of members will usually be assigned to each Chamber. This body, therefore, has little to do except to determine how the members to which it is entitled shall be chosen. The Senate treats each case separately as occasion arises. In the Chamber, a special resolution of February 18, 1915, deals with the matter.²⁰⁰ This resolution, assuming the existence of extra-parliamentary committees, determines that the members to which the Chamber is entitled shall be nominated by the grand committee having a sphere of action similar to that into which the activities of the proposed extra-parliamentary committee fall. If there is doubt as to which grand committee this is, the Chamber naturally decides; or it may determine that nominations shall be made by several committees. The members nominated need not necessarily belong to the committee nominating them. A list of nominations is transmitted to the President of the Chamber, communicated to the Chamber, and posted in the lobbies. Five days later the election takes place in the Chamber.

The several miscellaneous committees which supplement the regularly established systems of grand standing committees in the French Parliament, though they are now definitely exceptions in the normal organization of the Chambers, can scarcely appear very strange or unusual to most Deputies and Senators, especially to those of long standing. They are accustomed to committee work in general; and in forming the tradition of this work, special committees of course played a part of paramount importance. Moreover, special committees are, as it were, a symbol of reaction; and, as has been said, members still exist who favor a return to these committees as a regular system. It is the old and to many the natural committee organization.

¹⁹⁹ Cf. various fascicules of *État des travaux législatifs*.

²⁰⁰ *Règlement de la Chambre, in fine*. Cf. Pierre, *op. cit.*, nos. 104, 539, 542 et seq.

CHAPTER V

THE GRAND COMMITTEES AND LEGISLATION

ACCORDING to what may be called French theory,¹ legislatures ought to be deliberating bodies. In them should be manifested in public affairs reflection, reason, and wisdom. The decisions of a legislature should be those of an assembly representing the wisdom of the principal citizens. But law-making is an increasingly difficult and complex function. "To make wise and durable laws," wrote a Deputy² in 1876, "maturely considered, deliberated in calm, and clearly formulated, is the difficult task of legislators. . . . Too long debated and overcharged with articles, law is exposed to confusion and error; too promptly voted in an incomplete form, it may become a peril for those who invoke it."

A principal reason for the marked difficulty and great complexity of legislation in modern times may be found in the fact that it constantly finds itself intimately connected with activities which are not strictly legislative in their character. This is not least true of France. The political dogma of the separation of powers, though as a theoretical principle it has had in France an influence perhaps greater than in any other place, has never in practice prevented Parliament from exercising functions, and a corresponding influence, only remotely connected with the making of laws.

According to modern ideas of government, the principal functions of legislatures are of course the making of laws, the administration of finance, and the control of the executive. Therefore, the principal activities of legislative committees, which are the working organs of legislatures, naturally do not differ in kind, however much they differ in degree, from those of legislatures themselves. The fact that the function of law-making is in a sense the primary function of legislatures should not obscure and cannot minimize the fact that the two other kinds of activities of these bodies are also of paramount importance. Each of the three functions deserves careful attention when any serious study

¹ Cf. Hauriou, *Principes de droit public* (2^e éd., Paris, 1916), pp. 709 *et seq.*

² M. Millaud in his report on the règlement. See J. O., 1876, mai-juin (annexe no. 152), p. 3920.

of legislative assemblies is attempted; and, likewise, a study of the working of legislative committees ought to treat separately, so far as is possible, the relationship of the committees to each of these activities. The three functions are, of course, by no means independent one of the other; in fact, legislatures would scarcely have ever assumed these varied undertakings if no connection had been conceived to exist between them. At all events, an account of the relationships involved must result in some inevitable repetition, though it may doubtless be justified on grounds of convenience.

The part played by the French committees in the actual process of law-making is in large measure the same in the Senate and in the Chamber of Deputies. Only a relatively few contrasts present themselves. On the other hand, in the case of both Chambers, considerable difference is to be noticed between the form of legislative procedure practised in 1876 and the nature of the procedure which is in use at the present time. Moreover, inasmuch as the committee stage must be regarded as an integral part of both procedures, fundamental alteration which has taken place in the committee system is at once a cause and a manifestation of change in procedure.

An account in broad outline of the principal steps in French legislative procedure as it existed at the beginning of the Third Republic and of the several stages in the process as it is found at the present day possesses several advantages. The two procedures may be compared and contrasted, and the principal points of resemblance and difference may be noted. Moreover, in the case of a study of legislative committees, the position of the committee stage in relation to the other elements of procedure may be seen in proper perspective, and the committee stage may then without disadvantage be taken out of its setting and described in detail.

The procedure which existed at the beginning of the Third Republic was of course evolved at a time when the legislative branch of government performed a task of far different proportions from that which it is at present called upon to attempt. Repetition cannot alter the important fact that the economic and social problems growing out of the Industrial Revolution are so numerous, so complex and difficult, and so important that the legislative machines of most countries have at least threatened to break down under the strain. Consequently, the effort on the part of legislatures to cope with these pressing problems has involved suggestions of reform of method and has given rise to attempts to evolve a more suitable legislative procedure. No reason appears to exist for believing that a final solution has been found.

The Process of Law-Making in 1876

The procedure which was adopted in 1876 in the French Chambers had not, then, been called upon at the time of its origins to deal with problems of the same nature or in the same numbers as at the present day. The legislative branch of government was supposed to be and was a deliberating assembly; and its methods of procedure were calculated to be deliberate. Circumstances were contemplated in which such measures as might be proposed could not become part of the positive law of the land without discussion of the most thorough kind. Thus, under this original system of procedure, the normal course of a proposed measure was somewhat long, complicated, and susceptible of numerous variations. At the same time, its principal stages were relatively simple in character.³ The distinction which was made between those measures sponsored by the Government and those introduced by private members involved no important difference of principle. Any measure which a Minister or a member might wish to bring before the Chamber could be introduced by him merely through the act of being placed before the President of the Chamber involved. According to the *règlement*, the President announced to the Chamber the fact of introduction, ordered the proposed measure printed and distributed, and, in the case of a private member's measure, referred it to a committee of initiative. This committee was supposed to make a general study of the measure and to present a summary report of its findings to the Chamber. In this report, the committee usually suggested that the measure be taken under consideration. Other possible steps, however, were open to the committee. It could propose rejection of the measure; it could suggest the previous question; it could recommend reference to an extraordinary committee, reference to a special committee already in existence, or urgency. In the event that the normal report was made, the report of the committee of initiative, proposing that the measure be taken under consideration, was, at the time at which it came before the Chamber for discussion, the occasion for a debate on the proposal; and the Chamber voted either to accept or to reject the report of the committee of initiative. If rejection was voted, the measure was of course lost, and it could not be immediately reintroduced. If, however, a decision was voted to take the measure under consideration, it was sent to the bureaux for discussion. The bureaux were, it will be remembered, chosen

³ See original *règlements* of the Chamber and Senate, *passim*. Cf. also J. O., 1889, Docs. Ch., S. E., no. 5 (19 novembre), p. 1, Pierre, *Traité de droit politique, électoral et parlementaire* (5^e éd., 2 vol., Paris, 1929), Liv. VI^e.

each month by lot. The result of the employment of the bureaux was that the same measure was informally discussed simultaneously in eleven different places in the Chamber of Deputies or in nine in the Senate. The proposed measure was then sent to a special committee for detailed study. Each bureau elected one or more of its members to this special committee, the idea being that the members so elected would present to the committee the views which had prevailed in their respective bureaux. When the special committee had completed its studies, it made to the Chamber through a reporter chosen by itself a report of its findings. This report included a proposed text varying in lesser or greater degree from the measure originally proposed, together with a summary of the various views which had manifested themselves in committee. The text, unless it happened to receive the benefit of a declaration of urgency, was twice discussed at a public sitting on occasions separated from each other by at least five days. A declaration of urgency resulted in the suppression of one of the discussions. During the discussion, the committee was in charge of the measure, the president and the reporter taking an active part in supporting the proposed text. First, a discussion of a general nature was held, in which the principle of the measure was debated; and when no one else desired to speak, the Chamber voted on passing to the reading of the articles. If the vote was in the negative, the measure was lost. The usual procedure, however, was to pass to the reading of the articles. Each article was voted upon separately, whereupon a vote was taken on the measure as a whole. If the measure was passed, it was sent to the other Chamber, where it underwent practically the same procedure.

The Existing System of Law-Making

The present-day procedure in the Chamber and the Senate is somewhat simpler than that established by the provisions of their original règlements. At the same time, some of the steps are essentially the same as before.⁴ A measure is introduced in the same manner as formerly, either by a private member or by a member of the Government in the name of the President of the Republic. The President of the Chamber involved notifies that body of the fact of introduction and orders the measure to be printed and distributed. The President thereupon normally turns over the measure to that one of the grand committees into the sphere of which he thinks it to fall. In this way, the preliminary

⁴ *Règlement de la Chambre des députés*, arts. 20, 23, 24, 29, 43, 82; *Règlement du Sénat*, arts. 23, 36, 62, 65, 75. Cf. Pierre, *op. cit.*, nos. 684, 690, 786.

report of the committee of initiative and the preliminary discussion in the bureaux have been eliminated. As a matter of fact, the committees of initiative, it will be remembered, have been abolished; and the bureaux have little reason at present for existing. The possibility still exists for the Chamber to order the institution of a special committee, but the great majority of measures are referred to the grand standing committees.⁵ A measure, after being studied in committee, is reported to the Chamber by some one of the committee members chosen for the purpose. The report contains, together with the principal views of the majority and the minority, the text proposed by the committee; and this text, not that originally introduced, is discussed by the Chamber. In the public discussion in the Chamber, the president and the reporter of the committee play a part which is of similar importance to that performed by the same members under the old system. At the present time only one discussion is normally held in the Chamber of Deputies, instead of two as formerly. In the Senate, however, two readings are retained as the regular practice. After the general discussion has been terminated, the Chamber votes on passing to the reading of the articles. If the decision is in the affirmative, the Chamber proceeds to a vote as formerly, first on each article and then on the whole measure. If the measure is passed, it makes its way to the other Chamber, there to undergo a similar process.

Substitution of the existing system of French legislative procedure for the system adopted in 1876 represents simplification in several principal respects. In both systems, study of a proposed measure in committee stands between introduction and public discussion. Under the present system, as it operates normally, reference to a grand committee follows immediately the introduction of a measure. Originally, a private member's measure which was without the benefit of a declaration of urgency received preliminary discussion and a summary report at the hands of a committee of initiative; and in all cases where, as was the normal procedure, a special committee was set up, general discussion took place in the bureaux. All this has now been eliminated. Again, following the committee stage, only one public discussion takes place at present in the Chamber, where formerly there were two. The presumption in this matter has been exactly reversed. Originally, two deliberations were the rule; and a vote of urgency was necessary in order to suppress one of the public discussions. At present, there is normally only one deliberation, a special order of the Chamber being necessary for a

⁵ For statistics in this respect, consult various *fascicules of État des travaux législatifs de la Chambre des députés*.

second reading. At present, therefore, normal legislative procedure involves two principal parts. The first part consists of discussion and study in committee. Following this, debate and voting, based on the text and views of the committee, take place in plenary session of the Chamber.

Of the two principal parts of procedure, the preliminary work of the grand committees in legislation appears to be assuming increasing importance. "The general sentiment of the Chamber," wrote a distinguished reporter of the committee on the *règlement* in 1920,⁶ "supported moreover by the instinctive desire of opinion in the country, points incontestably to the view that public sittings ought more and more to be reduced to a sort of control, solemn and in broad daylight, of the conclusions arrived at in the calmer atmosphere of the committees." As a matter of fact, the opinion that a better division of work between public sittings and committees would reduce to more desirable proportions the tasks of the Chamber as a whole has been expressed at various times during the history of the Third Republic. Experience during the World War served to confirm the opinion. The committees seemed at that time especially to demonstrate the accomplishments of which they are capable.⁷ This experience, being acquired in time of crisis, seems to suggest a similar conclusion whenever conditions appear, as they have almost continuously appeared since the War, in some degree critical. In such conditions, Parliament is more likely to give the impression of presenting a "spectacle of incoherence and sterility," and the situation is eased by a tendency "to shift details of discussion into the committees and to call upon the Chambers themselves to ratify the whole."⁸

The Committees and Prospective Laws

A distinction similar to that which is maintained in England between Government bills and private members' bills is made in France. In France, however, the distinction is definitely of less importance. Measures which are introduced by members of the French Ministry on behalf of the President of the Republic are called *projects* of law, whereas those which owe their origin to the initiative of individual members are

⁶ M. Joseph-Barthélemy in his report on behalf of the committee on the *règlement*. See J. O., 1920, Docs. Ch., S. O., no. 493 (9 mars), p. 341.

⁷ Cf. Ch. VII, *infra*.

⁸ Joseph-Barthélemy, *Essai sur le travail parlementaire et le système des commissions* (Paris, 1934), pp. 209, 353. Cf. also *Le Temps*, 17 avril 1924, for an address by the President of the Chamber, M. Raoul Péret, in which he suggested that "too many public sittings interfered with 'useful and silent work of the committees.'"

called *propositions* of law. However, aside from this special nomenclature, the differences which exist between the two sorts of measures are of minor importance. A measure introduced by a private member automatically expires, it is true, at the end of a legislature, while a Government bill can experience no such death.⁹ At the same time, as will presently appear, if a private member's bill has proceeded to the point of having been reported, it may easily be revived. If it has not reached this point, the same private member may reintroduce it in the succeeding legislature without feeling that his measure has lost much ground. There is also in theory a slight difference in formality connected with the introduction of the two sorts of bills. A member of the Government is supposed to introduce his proposed measure while the Chamber is sitting. He is said to place the bill on the bureau of the Chamber, and the règlement permits the bill to be read, if there should be need of such procedure.¹⁰ A *proposition* of law, on the other hand, or a resolution is informally presented to the President of the Chamber, who, when opportunity presents itself during a public sitting, theoretically informs the Chamber of the introduction of the measure, giving the title in general terms and mentioning the name of the member or members by whom it is sponsored.¹¹ All measures proposed must be in writing, and they must be reduced to a form containing one or more articles, preceded by a short explanation of the measure.¹² They are then ordered by the President of the Chamber to be printed and distributed.

When a measure has been printed and distributed, it is referred by the President of the Chamber, unless that body itself decide otherwise, to the grand committee into the province of which the measure seems naturally to fall.¹³ In the case of a measure which has passed one Chamber and which has been communicated to the other, it is likewise referred to the competent committee, the règlement of the Chamber of Deputies specifying¹⁴ that such reference is by full right and shall be immediate.

⁹ Cf. Pierre, *op. cit.*, no 690.

¹⁰ *Règlement de la Chambre*, art. 20. Cf. Pierre, *op. cit.*, no. 684.

¹¹ *Règlement de la Chambre*, art. 23. Cf. Pierre, *op. cit.*, nos. 690, 755. In practice, the *Journal officiel* employs expressions suggesting that introducers of measures make formal statements. The words are in reality almost never uttered.

¹² *Règlement de la Chambre*, art. 21; *Règlement du Sénat*, arts. 62, 75. Cf. Pierre, *op. cit.*, no. 728.

¹³ *Règlement de la Chambre*, arts. 21, 27; *Règlement du Sénat*, art. 18. Cf. Pierre, *op. cit.*, nos. 61, 62, 690, 755.

¹⁴ Art. 25. Cf. Pierre, *op. cit.*, no. 755. The règlements of the Chambers (Chamber, Art. 22; Senate, Art. 74) mention the simple disposal to be made of measures returned by the President of the Republic for reconsideration; but, as is well known, this eventuality has never yet transpired.

Measures, then, are in France introduced in unlimited number; and they proceed at present straight to the grand committees. The general term *measure*, it may be noted, includes a variety of particular kinds. In addition to projects and propositions of law and resolutions introduced for the first time, to bills returned (as has never yet happened) by the President of the Republic, and to proposals already passed by the other Chamber, certain others may be listed. They include amendments, counter-proposals, additional articles, bills recommitted for co-ordination and revision, reports of former committees, petitions, and orders of the day.¹⁶

Petitions are to a certain extent in a class by themselves. Procedure with respect to them perhaps deserves some attention, in spite of the fact that petitions are of historical interest rather than of practical importance. Certain general principles respecting them have been incorporated into the public law of France.¹⁷ However, rules concerning the disposition to be made of them are in large measure contained in the *règlements* of the Chambers.¹⁷ These rules are, for the most part, the same in the Senate and the Chamber of Deputies.

Most of the proposals to establish a system of grand committees in the Chamber of Deputies suggested the suppression of the monthly committee on petitions.¹⁸ However, the report of the committee on the *règlement* in 1898 favored the maintenance of this committee¹⁹; and, as in the case of the committee of initiative, the committee on petitions survived the establishment of the system of grand committees in the Chamber in 1902. It was finally suppressed in 1904.²⁰ In the Senate, likewise, the suggestion was made in the report of the committee on the *règlement* in 1920 that the committee on petitions should no longer be maintained.²¹ However, the Senate failed to adopt this proposal at the time that it accepted the system of grand committees.²² For this reason, therefore, the committee of nine members on petitions has survived in the Senate to the present time. To this committee such peti-

¹⁶ Orders of the day are in reality connected with control of the executive by the legislature. The other types of measures are treated at what appears the proper place.

¹⁷ Cf. Pierre, *op. cit.*, no. 569.

¹⁸ Chamber, Ch. XV (Arts. 121-127); Senate, Ch. IX (Arts. 95-102).

¹⁹ E. g., J. O., 1882, Docs. Ch., S. O., no. 639 (20 mars), p. 911; J. O., 1889, Docs. Ch., S. E., no. 6 (19 novembre), p. 3; J. O., 1894, Docs. Ch., S. O., no. 629 (17 mai), p. 815.

²⁰ The Graux Report. See J. O., 1898, Docs. Ch., S. O., no. 250 (12 juillet), pp. 1491 *et seq.* Cf. also *ibid.*, Débs. Ch., 16 novembre, p. 2215.

²¹ At the suggestion of M. J.-L. Bréton. Cf. J. O., 1903, Débs. Ch., 12 février, p. 620.

²² The Cazelles Report. See J. O., 1920, Docs. Sén., S. E., no. 484 (19 novembre), p. 870.

²³ J. O., 1921, Débs. Sén., 19 janvier, p. 31.

tions as come before the Senate are normally referred. The règlement, on the other hand, recognizes the right of the Senate, if it should see fit, to refer petitions to the grand committees. Such reference has been the established practice in the Chamber of Deputies since the abolition of its committee on petitions. In the Chamber, every petition is referred by the President to that one of the grand committees which seems best qualified to deal with it. In accordance with the règlement, the committees of the Chamber divide into three classes such petitions as are referred to them. The first class consists of those petitions which seem to be of such a nature as to warrant being sent to one of the Ministries. The second class includes petitions which appear worthy of consideration at the hands of the Chamber. In the third class are contained such petitions as do not fall into one of the first two classes. The committee is required to furnish a member who has presented a petition with information as to the class into which his petition has been placed and as to the reasons for its having been so treated. This information is likewise required to be shown on a sheet distributed every month to the members of the Chamber, on which are listed all petitions considered by the various committees. A committee, if it so decide unanimously, need not give its reasons for having placed a petition in a given class. At the end of a month, the decision of the committee becomes definitive, unless a member demand a public report of the petition.

Jurisdiction of the Committees

The general province of each grand committee is for the most part designated by its name. In fact, so far as the règlement is concerned, except for provisions²³ stipulating the measures which must be referred to the committee on finance, the names of the committees furnish the only indication of their jurisdiction. However, in practice, precedent and experience together inevitably serve to outline with more and more definiteness the boundaries of their province. At the same time, in some instances, uncertainty naturally arises concerning the sphere into which a particular measure falls. In such a case, the Chamber itself is manifestly the proper authority to make the decision. Accordingly, the President of the Chamber, if he be in doubt as to the committee to which he should refer a measure, is authorized by the règlement²⁴ to consult the Chamber in the matter. Moreover, in the Chamber of Deputies, when a measure has once been referred by the President of

²³ Chamber, Art. 100; Senate, Art. 16.

²⁴ Chamber, Art. 31; Senate, Art. 18. Cf. Pierre, *op. cit.*, no. 737 bis.

the Chamber to one of the grand committees, the question of the competency of the committee may be raised voluntarily by the committee which has just received the measure or by another committee which believes that the measure in question ought to have been referred to it.²⁵ In both cases, the question of the transfer of the measure is raised and must be determined. If the two committees concerned are agreed, the President of the Chamber orders the transfer; but if the two committees cannot agree, it is necessary for the Chamber to make the decision. In practice, a committee will be constrained to demand without delay the transfer of a measure to itself, for otherwise it could scarcely hope successfully to meet the argument that the original committee had already begun its study and that it could not be expected to give it up.²⁶ A similar question may arise where the fundamental nature of a measure seems to cause it to fall within the sphere of one committee but where a particular aspect of it appears to belong to the province of another.²⁷ The measure is then referred to the first of these committees; but either that committee or the second committee may suggest that the latter ought to study the special point involved with a view to making a report of its opinion. Such opinion must be given within the period of ten days. The decision, as in the case of the transfer of a measure, belongs to the President or to the Chamber, depending on whether the two committees are agreed or not. If a proposed measure seems to fall within the jurisdiction of two committees, the Chamber may theoretically invoke the provision of the *règlement* which authorizes it exceptionally to decide that the two committees shall sit together or that a new committee, consisting of a certain number of members from each of the committees concerned, shall be formed.

The question of the competency of legislative committees and of the reference of measures to them may be of considerable importance. The possibility of uncertainty is attended by the possibility of conflict. In this respect, the French Chambers stand between the House of Commons in England, in which the question is of minor importance, and the American House of Representatives, in which the fate of a measure may depend on the committee to which it is referred. Before the estab-

²⁵ *Règlement de la Chambre*, art. 31.

²⁶ Evidence for this may be found in the minutes of the committees (see Bibliographical Note, *supra*). Formerly, that is to say, when committee members were elected normally at the beginning of the regular session in January, at which time the President of the Chamber referred measures in great numbers to the several committees, an intervening period existed which afforded ample opportunity for objection to be raised to any reference made by the President.

²⁷ *Règlement de la Chambre*, arts. 28, 31. Cf. *Pierre, op. cit.*, no. 751.

lishment of the Third Republic, examples of conflict were familiar in France; and the opponents of *grand committees* predicted a renewal of this experience. In 1848 ceaseless struggles and bitter contests apparently took place with respect to the reference of measures to committees; and the result seems to have been that measures were in the end sent to special committees.²⁸

At the time of some of the earlier efforts to establish a system of grand committees in the Chamber of Deputies, the proposal was in some cases made that the member of the Government or the individual Deputy who introduced a measure should choose the committee to which he wished the measure to be referred, the Chamber, of course, being always able to decide disputes.²⁹ Though such a stipulation has never been incorporated into the *règlement*, no reason appears to exist why the President of a Chamber should not in this matter respect the wishes of the author of a measure, and usually he will undoubtedly do so. As a matter of fact, the terms of the *règlement*,³⁰ so far as Government measures are concerned, are not altogether unambiguous; and, strictly speaking, the Government may possess the legal right, as it undoubtedly has the practical certainty, of determining to which committee one of its measures shall be referred. Moreover, in this matter as in so many others, the experience of the permanent functionaries of the Chambers is an important element in reducing practical difficulties to a minimum. A proposal made in 1931 by some forty-five Deputies that the President of the Chamber should be supplanted by the Conference of Presidents as the agency for referring legislative proposals to the several committees does not appear to have aroused much interest.³¹ On the other hand, when a measure has been referred to a committee and is thus out of the President's control, the situation is somewhat different, in spite of the fact that the question may still be raised as to the competency of the committee to which a measure has been referred. The corporate pride of grand committees is of such a nature that a committee is not likely voluntarily to give up a measure of which it is possessed; and the fact that such possession is likely to cause the Chamber to decide in favor of a committee which opposes being deprived of a measure should in practice be sufficient to reduce conflict to a minimum. Rivalry, however, may persist; and, in case of conflict,

²⁸ Cf. J. O., 1890, Débs. Ch., 5 février, p. 195.

²⁹ See, for example, J. O., 1882, Docs. Ch., S. O., no. 639 (20 mars), p. 908; J. O., 1894, Docs. Ch., S. O., no. 629 (17 mai), p. 815; *ibid.*, Débs. Ch., 12 juin, p. 975.

³⁰ Chamber, Arts. 20, 23.

³¹ Cf. J. O., 1931, Docs. Ch., S. O., no. 4690 (3 mars), p. 393.

decision is important, as otherwise uncertainty will result and nothing will be accomplished. "In the last legislature," complained a Deputy ⁸² in 1914, "it was impossible to secure a solution for a proposal which I had the honor to introduce and which had as its object the reform of coastal jurisdiction and of the police administration of maritime navigation. This proposal promenade several months from the committee on judicial reform to the committee on the navy; and it was impossible to establish an understanding. If, on the contrary, the competency had been settled as belonging to a single committee, accord would doubtless have been realized among the members of the committee; and to-day this reform, awaited by all the coastal populations, would be accomplished."

Committees and the Legislative Initiative

According to present French procedure, the journey of a measure between the time of its introduction and its arrival in committee is manifestly a short one. No limit is placed on the number of proposals which may be introduced, and no difficulty is put in the way of the arrival of these proposals in the presence of one of the grand committees.⁸³ Since every legislative assembly is confronted with the problem arising out of the fact that there is never sufficient time to debate in plenary session all the measures which individual members would like to see discussed, somewhere in the course of the journey of proposed measures, before they reach a final public discussion and are voted on, a brake must be applied in the form of a sorting process. Moreover, the farther on their way measures are allowed to get without hindrance, the more momentum they will gain before the brake can be applied. In England, this is accomplished at the very beginning of the journey. The introduction of measures is the point at which most of them are eliminated. By giving to the Government most of the time when measures may be introduced and leaving to private members only the hope of success which results from the chance of lot-drawing, the House of Commons relieves itself and its committees of a task of sorting measures on a wholesale scale. In the lower assemblies of France and the United States, on the other hand, the flood of proposals, owing to unwillingness or inability in these countries to check individual initiative at the start, is without obstacle until the flood reaches the committees. These bodies of study must, therefore, before they can give the

⁸² M. de Chappedelaine. See J. O., 1914, Débs. Ch., 19 juin, p. 2491.

⁸³ The assertion is sometimes made that the President of the Chamber is under an obligation not to receive an unconstitutional measure.

proper attention to such measures as warrant receiving part of the limited time of a full session, select them from among huge numbers of less worthy proposals. This negative function of killing useless proposals is well known to be thoroughly and efficiently performed in the United States; and little probability exists that in France much complaint can be made on this score.⁸⁴

The procedure of the House of Commons, besides attacking at its source the problem of a great flood of legislative proposals, offers the advantage of a discussion of the principle of a measure before it is referred to a committee. Under the old system in France, the same general purpose was of course envisaged in the establishment of a preliminary discussion in the bureaux. However, the just criticism to which this discussion in the bureaux was in the end subjected—that it was so superficial as to be practically non-existent—arose because the flood of measures had not been sufficiently checked before reaching the bureaux. The committees of initiative were unequal to the contest with unlimited individual initiative. This unlimited initiative, being a sacred right in French eyes, was the last point at which the problem might be expected to be attacked; and since study by the committees of initiative and discussion in the bureaux worked unsatisfactorily in practice, the simple solution naturally seemed to be the elimination of both. Discussion in the bureaux finally disappeared with the adoption of the present method of nominating the grand committees; and even before that time, as has been seen, only a few persons contended that discussion in the bureaux, preceding the naming of the grand committees for four years, was of real value. On the other hand, no theoretical reason exists why committees of initiative should not work along with the system of grand committees. Only the logic of events finally caused their abolition.

The first difficulty with which the twenty-two members of a committee of initiative were confronted was precisely the large number of proposals with which they were compelled to deal. The *règlement* stipulated that the summary reports of these committees should be presented within a period of two weeks, and this was rarely accomplished.⁸⁵ Failure to report regularly is not to be wondered at, in view of a second disadvantage. Committees of initiative were elected for a period of only one month, with the result that, in the course of a legislature, something like thirty committees of initiative were set up, often composed of different members. Furthermore, committees of initiative

⁸⁴ Cf. Hubault, "Comment se fabriquent les lois," *Revue hebdomadaire*, 1^{er} novembre 1919, p. 78.

⁸⁵ Cf. Pierre, *op. cit.*, no. 694.

were in practice rarely so inconsiderate of the feelings of a member as to suggest the rejection pure and simple of his proposal. Recommendation that the measure be taken under consideration came to be expected as a matter of course. Whatever might have been the possibilities of the committees, the fact was that they did not work satisfactorily. Members therefore took advantage of several expedients by which this unnecessary stage in the journey of a measure might be avoided. The practice grew more frequent of requesting the Chamber to refer a measure to a committee already in existence; the grand committees increased in number; and it came to be considered a matter of politeness for a Chamber not to refuse to a member the benefit of a declaration of urgency.³⁶ The result was that an effort was made to reform the committee of initiative³⁷; but, the effort having failed, the committee, after hanging on for a time, was finally abolished in 1903.

The various efforts to establish a system of grand committees in the Chamber of Deputies usually included a provision proposing that the committee of initiative should be abolished. Thus, when the question first came before the Chamber for public discussion in 1890, the proposals of the grand committees supported the suppression of this committee.³⁸ On the other hand, the report of the committee on the règlement,³⁹ which was unfavorable to the establishment of a system of grand committees, proposed the reform of the committee of initiative as the step best calculated to improve the situation in the Chamber. In order to remedy the disadvantages with which all were acquainted, the proposal was made that the committee of initiative should become annual, that it should be increased to thirty-three members, and that the committee should be afforded the possibility of making to the Chamber a recommendation which would stand somewhere between favorable report of measures and rejection pure and simple. The method suggested in this last-mentioned respect was "adjournment with a minimum of three months." This more courteous form of treatment was calculated to check the results of unlimited individual initiative without wounding the feelings of the individual member. The committee on the règlement, though successful in its opposition to the grand committees, was unable to secure acceptance by the Chamber of its proposals respecting the committee of initiative.⁴⁰ In 1894, elimination of the committee of initiative was rejected at the same time that the efforts of

³⁶ Cf. in these matters the 1898 Gaux Report (see Note 19).

³⁷ Cf. J. O., 1889, Docs. Ch., S. E., no. 173 (12 décembre), p. 339.

³⁸ Cf. *Ibid.*, no. 31 (19 novembre), p. 69.

³⁹ Chaurès Report (see Note 37).

⁴⁰ J. O., 1890, Débats. Ch., 7 février, p. 210.

the advocates of the grand committees were again unsuccessful. The pertinent suggestion made in debate at this time, that measures should be referred to committees only after a discussion of their principle in plenary session, went unheeded.⁴¹ On the other hand, when in 1898 the report of the committee on the *règlement* in favor of grand committees seemed certain of acceptance, the report proposed the maintenance of the committee of initiative on the grounds that it would still be of value in instances where the Chamber should prefer the use of special rather than grand committees.⁴² The reporter himself had proposed the establishment of a committee of twenty-two members, to be called a committee on legislation, which would among other things sort and classify proposed measures before their reference to the various grand committees; but the committee on the *règlement* rejected this suggestion. Again, the committee of initiative survived the establishment in 1902 of the system of grand committees in the Chamber; but in the following year it was finally abolished.⁴³ The corresponding committee in the Senate was suppressed in 1921, at the time of the establishment of the system of grand committees in the Senate.⁴⁴

Legislative Work in the Committees

The method by which the grand standing committees conduct their examination of the measures which are referred to them is directly or indirectly affected in greater or lesser degree by numerous stipulations of the *règlement*. However, concerning the actual procedure in the committees the *règlement* is for the most part silent. Consequently, the committees have been almost altogether free to evolve their own procedure. The simple and not unnatural result has been that the grand committees, like the special committees before them, have adopted in most respects the basic principles of the procedure of the Chamber itself. Custom, of course, serves to supplement this procedure.

The committees are called together for the first time by the President of the Chamber, this officer, in the absence of specially elected presidents, being considered president of all committees.⁴⁵ Each committee proceeds, of course, to choose its own officers.⁴⁶ When the permanent president relieves the temporary president, he avails himself of the occasion of assuming the chair to make, like the Presidents of the Cham-

⁴¹ J. O., 1894, Débs. Ch., 12 juin, p. 975.

⁴² Cf. 1898 Graux Report (see Note 19).

⁴³ J. O., 1903, Débs. Ch., 12 février, p. 620.

⁴⁴ J. O., 1920, Débs. Sén., 26 novembre, p. 1807.

⁴⁵ Cf. Pierre, *op. cit.*, no. 743.

⁴⁶ See Ch. IV, *supra*.

bers in similar circumstances, an inaugural speech. Though committee meetings are not open to the public, the inaugural speeches of their presidents, especially in the more important committees like those on finance and foreign affairs, are frequently reported in the press. Such speeches generally outline the problems confronting the committees and dwell on the seriousness of purpose and on the marked ability which the members are certain to bring to the work before them. "Our task, gentlemen," said for example a distinguished statesman⁴⁷ upon taking the chair as president of the committee on labor, "is great and difficult. Numerous and serious are the bills which are at this moment before you. . . . In order to be equal to the confidence of the Chamber and to the expectation of the country, you will have to possess, together with a right good will and a persevering laboriousness, a great deal of order, a vigorous method, and a clear view of the end to be attained."

The presidents of the grand committees are important personages.⁴⁸ Their title of "president" is a mark both of real prerogative and of formal dignity. Thus, they possess a position of recognized precedence in committee work, in the ordering of parliamentary business, and in debate. They, along with their families, receive invitations to "parliamentary dinners," given on occasion by the President of the Republic or by the President of the Chamber. The presidents of grand committees are likewise men usually of experience and often of ability. In the latter respect, though generalization is difficult and uncertain, a member may in certain conditions hope to reach the position of president of a grand committee through personal qualities alone.⁴⁹ The majority of the Chamber, it is true, is normally reflected in the grand committees; so that theoretically the majority may place its members at the head of any committee. A majority may even in practice insist in certain circumstances that its members shall head all the committees.⁵⁰ On the other hand, the majority is rarely even relatively homogeneous and compact. Moreover, in a number of instances, the election of a committee president is not naturally associated closely with Government policy. In these conditions, recognized ability and personal experience may well take precedence over political opinion. Special

⁴⁷ M. Millerand. Cf. Wallier, *Le 20^e siècle politique*, Année 1906 (Paris, 1907), p. 121 n. Cf. also *Le Temps*, 5 février 1920. These examples are chosen largely at random. Numerous examples are ready to hand for any one who will consult the files of the daily press or the *Bulletin des commissions*.

⁴⁸ Cf. in this respect Joseph-Barthélemy et Paul Duez, *Traité de droit constitutionnel* (2^e éd., Paris, 1933), pp. 547-548; Joseph-Barthélemy, *op. cit.*, pp. 115 et seq.

⁴⁹ Cf. *Le Temps*, *loc. cit.*, and (Joseph-Barthélemy), "Ce qui se passe à la commission des affaires étrangères," *Revue hebdomadaire*, 7 octobre 1922, p. 93.

⁵⁰ Consult the daily press for the attitude of the Left after the elections of 1924.

qualities and technical knowledge may be given greater weight than partizan considerations. Even in the case of committees in which political questions are normally paramount, members of the minority may become officers of the committees on account of some special situation, such, for example, as falsification of the principle of proportional representation through manipulation of fractions by the political groups at the time of the election of the committees.⁵¹

The other officers of the grand committees, aside from the reporters, are said to exist primarily for the purpose of satisfying self-esteem through the bestowal of titles. At all events, they perform little, if any, function. A vice-president may on occasion serve in the place of the president; but the functionaries furnished to the grand committees by the administrative services of the Chamber relieve committee secretaries of all responsibility.⁵²

When a grand committee has been organized through the choice of its officers, the president ascertains the day on which the members of the committee prefer regularly to meet. The fact that a special day is by provision of the règlement set aside in the Chamber of Deputies for the meetings of the committees is far from meaning that the committees meet regularly only on this day. A committee may choose any day which it sees fit as its regular time for meeting; and the president, in a conference with the other presidents of committees, is supposed to ascertain that the time chosen is not the same as that on which another committee is meeting to which one or more of his members belong. The probability is that if a grand committee is to divide itself into sub-committees, this division will also take place at the first meeting of the committee. The sub-committees likewise elect their officers and determine their time of meeting. At later meetings also of course, the establishment of one or more sub-committees may be decided upon. Likewise, the committee from time to time chooses one or more of its members to serve on numerous extra-parliamentary bodies of one sort or another.⁵³

With its officers chosen and its time of meeting determined, a grand committee meets with fair regularity at the time selected. Special meetings are, when occasion demands it, called by the president. The notoriously bad attendance at committee meetings is such a fixed tradition

⁵¹ The case of M. Malvy, President of the Committee on Finance, is a well-known example.

⁵² For these matters, consult Joseph-Barthélemy et Paul Duez, *loc. cit.*, and Joseph-Barthélemy, *Essai, loc. cit.*

⁵³ For these activities consult the daily press and, more especially, the *Bulletin des commissions*.

that, in spite of the stipulations of the *règlement* requiring a quorum and instituting other devices calculated to secure better attendance, only some special occasion as a rule causes a large majority of members to attend a particular meeting. In most committees the average attendance is apparently not likely to be more than ten. This small body examines the prospective laws of the land.

At a typical meeting, when a committee has been called to order by the president, or in his absence by one of the vice-presidents, the presiding officer communicates to the committee any matter which has come to his attention and which he thinks might be of interest to the committee. He announces the request of a Minister or of other individuals to be heard by the committee. He informs the committee of the reply which a Minister has made to a request of the committee or of formal action which he has undertaken on its behalf, such, for example, as an exchange of messages with persons or communities in France or with committees of foreign legislatures on the occasion of deaths, catastrophes, and other momentous events. He communicates to the committee information concerning measures in which its members are interested. Thus, he indicates as accurately as possible the current position of a measure which has been studied and reported by the committee but has not yet been heard in public discussion; or he mentions the situation of a measure which has gone on to the other Chamber. In a word, he announces any one of these or of many other things which may relate to the work past, present, or future of the committee. If proposed measures have been referred to the committee since the last meeting, the president announces the fact; and the general practice is for the committee immediately to appoint reporters. Thus, the stipulation of the *règlement*⁵⁴ is easily complied with which requires that a provisional reporter shall be named within two weeks of the reference of a measure to a committee. In reality, all reporters appointed when a measure has first been received in committee are technically speaking provisional reporters. They become definitively reporters of specific measures only when they have been authorized to present their reports to the Chamber. At the same time, the distinction between provisional and definitive reporters is not in practice rigidly maintained by all the grand committees.

An examination of such statistics as are available tends to indicate that in most cases other than that of the committee on finance the position of reporter is held by only a few of the members of the com-

⁵⁴ Chamber, Art. 28.

mittee.⁵⁶ In fact, in some committees, one member is regarded as being by a sort of special right the regular reporter of the committee.⁵⁶

The reporter studies the questions which are assigned to him; and he arranges to present to the committee a provisional measure for its discussion and examination. A measure as originally introduced is sometimes brought before the committee in unchanged or only slightly altered form; but as a rule it undergoes considerable modification. Several measures may be turned into one, or an entirely new proposal may be decided upon. In the second case, if juristic scruples should stand in the way, any officer or member of the committee may easily introduce into the Chamber a measure which will be immediately referred to the committee. Thus, for practical purposes, the committee may be said to possess the initiative in legislation.⁵⁷ The position of the reporter suggests that in general he should attempt to lead the committee. However, at times he comes before it for a decision on one or more questions of principle before he prepares his preliminary draft of a measure. When at last the reporter is ready, the measure is placed upon the order of the day for discussion by the committee. In the grand committees as in the Chambers themselves, the discussion of several measures customarily proceeds simultaneously.

Though the procedure in the grand committees is in general the same as that in public sessions of the Chambers, more informality naturally prevails. This informality, which results from the absence of a required procedure, leaves, of course, considerable freedom to a committee. It is at liberty to seek or to request information from any source with respect to any point which may arise.⁵⁸ It may request the attendance of witnesses of various sorts; and by permission of the Chamber, it may, though in practice it seldom does, secure the right to demand the presence of witnesses and to hear them under oath.⁵⁹ However, without this, at its own request or at that of the witnesses, a grand committee hears individually or in delegations experts, business men, members of societies, and various officials. Of especial importance, of course, are members of the executive branch of government. When a member of the Government appears before a grand committee, the general character of the hearing may at times lend support to the view that the

⁵⁶ Cf. various *fascicules* of *État des travaux législatifs* and individual numbers of *Bulletin des commissions*.

⁵⁶ Cf. Joseph-Barthélemy, *op. cit.*, pp. 5, 291.

⁵⁷ Cf. *ibid.*, p. 201.

⁵⁸ Cf. Duguit, *L'Organisation politique de la France* (Paris, 1924), p. 334.

⁵⁹ Law of March 23, 1914. See *Règlement de la Chambre, in fine*. Cf. Pierre, *op. cit.*, no. 592.

primary object sought is closely connected with legislation; but often the purpose of controlling the executive is clearly apparent. In any event, much time is spent in the grand committees by members of the Government and officials of the administration.⁶⁰ A Minister is expected to attend when so requested, though he not unnaturally suits his own convenience in the matter. Likewise, a committee not infrequently desires to ascertain, before its vote on a particular article is to be regarded as final, some point from a Minister or Ministry. In such an event, it deputizes for the purpose its president, its officers as a group, a special sub-committee, or an individual member.

The règlement of each Chamber ⁶¹ recognizes the right of a member who has introduced a proposal before one of the Chambers to be present in committee during the preliminary discussion of his measure. He may take part in this discussion, but he naturally has no vote. If a measure is the joint proposal of several members, the règlement of the Chamber of Deputies specifies that one of the number shall be chosen to take part in the committee discussion. The règlement of the Senate allows more than one of the number to be designated in this way. The authors of amendments, counter-proposals, and additional articles, like the authors of proposed bills, are recognized as having the right to take part in committee discussions. The règlement of the Senate contains a provision, which is not present in the règlement of the Chamber of Deputies, to the effect that an amendment must be introduced two days before the time of its public discussion, in order for its author to exercise this right. In any case, the members of a committee possess a manifest advantage with respect to proposal of amendments.

The practice in the Chamber of Deputies whereby one committee reports its opinion on a measure which is being studied by another committee is regularly authorized by order of the Chamber or by agreement between the two committees concerned. A similar practice takes place, without special authorization, in the case of the budget, each grand committee possessing the right to designate one of its members to take part in the discussion of that part of the budget which deals with matters falling within its providence. Reciprocally, the reporter of a special part of the budget has the right to participate in the meetings of the grand committee within the sphere of which matters connected with his section of the budget fall. Moreover, in accordance with a provision of the règlement of the Chamber of Deputies adopted in 1932, a grand committee may summon before it the special reporter for the purpose of

⁶⁰ Cf. Ch. VII, *infra*.

⁶¹ Chamber, Art. 28; Senate, Art. 27. Cf. Pierre, *op. cit.*, no. 750.

having him discuss orally the various aspects of his part of the budget.⁶² The occasion of such an appearance, interestingly enough, is not unlike that of the appearance of a Minister before the committee. In the case of matters which are not directly connected with the budget, the reciprocal privilege of attendance exists only where a committee has by the regular procedure been authorized to give its opinion on a question which is being studied by another committee.

The right of the author of a measure to be heard in committee involves certain possibilities of which the bare provisions of the *règlement* cannot give a complete idea. In practice, circumstances, of course, vary. In the case of public bills, the solution is likely in most instances to be simple. If a Government measure is involved, the Minister who is in charge of the bill, though his ideas are by no means certain to prevail, is sure to gain a hearing at least as often as he desires. On the other hand, in the case of a measure of a public nature introduced by a private member, the introducer is in all probability a member of the committee to which the measure is referred. The reason is simple. The member whose interests and abilities qualify him to draw up a serious public measure is likely for the same reasons usually to be chosen by his party as a member of the committee into the sphere of which the measure falls. In other cases and in many instances of private bills, the situation is less satisfactory. Under the system of special committees, the proposer of a measure was regularly elected by his bureau to the special committee which was to study his measure. If his proposal met with acceptance at the hands of the committee, he was regularly chosen as its reporter.⁶³ The establishment of the grand committees and more especially the institution of the present method of nomination have materially altered the situation. The right afforded by the *règlement* is found to be a narrow one. The introducer of a measure can usually hope to be heard only in somewhat summary fashion, like any other witness. The author of a measure is accordingly left in a position which will not be borne with equanimity by a man of spirit.⁶⁴ At the same time, it may be doubted whether any other solution is possible with unlimited individual initiative.

⁶² *Règlement de la Chambre*, art. 100.

⁶³ Cf. J. O., 1910, Déb. Ch., 1^{er} juillet, p. 2375.

⁶⁴ Cf. *ibid.*, "These sixteen grand committees," said M. Lemire at this time, "are veritable dormitories (Hear! hear! on various benches) into which are sent to rest and to die the proposals of Deputies. . . . Yes, they sleep or they die if their authors do not resign themselves to the necessity of going to pay court to such and such of the members of these grand committees (Applause on various benches), in order to solicit a report. . . . In the end, those who put their personal dignity above everything wrap themselves in the isolation of their independence. They do not give themselves the trouble to go and beg their colleagues to think of them. They introduce their proposal mechanically. They know in advance that it is useless to insist; that

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The history of French committees suggests that no great progress has been realized with respect to the right of authors of measures to be heard in committee. The right has remained substantially the same throughout the history of the Third Republic. Principal interest in the matter attaches to efforts to extend the right of attendance at committee meetings so as to include other members. More than one attempt has been made to introduce into the *règlement* the recognition of the right of all members to be present at committee meetings. This appears actually to have been the practice of committees in the Assemblies of the Revolution,⁶⁶ and in the course of the Third Republic the effort to establish a similar practice has been made from time to time. At present, the *règlement* of the Chamber of Deputies⁶⁸ specifically authorizes any Deputy to communicate directly to a committee any observations he may desire. The committee is required to answer such observations in its report on the measure involved or in a special report. The speculation is not without interest whether or not out of the practice of admitting all members to committee meetings in France the employment of the committee of the whole house might have grown. A distinguished Deputy who advocated in 1882 the right of all members to be present in committee discussions actually proposed in 1898 the conscious adoption of the practice, adapted to French needs, of employing the committee of the whole house.⁶⁷ This idea, though it has received sporadic support even in recent times, seems to be regarded with little favor in France.

Information which is derived from the questioning of members of the Government, from the hearing of introducers of measures, and from the evidence of other witnesses serves to supplement and to support the discussion of measures by members of committees. In this discussion the president and the reporter play the most prominent parts. The reporter regularly proceeds by taking up each point of a proposal, explaining the considerations which ought to weigh with the committee and offering whatever comment seems to him to be pertinent. The president, out of the ripe experience which usually belongs to the holder of this high position, supports the reporter, disagrees with his conclusions, or suggests modifications which seem to him worthy of acceptance. The few members

it will be sent to one of those grand committees which touch upon everything and do nothing. These committees are elastic frames into which everything that is wished may be made to enter but from which nothing emerges."

⁶⁶ Cf. 1898 Graux Report (see Note 19).

⁶⁷ Art. 34.

⁶⁸ Cf. Graux Report (see Note 19). See also Graux, "La Révision du règlement de la Chambre," *Revue politique et parlementaire*, 1898, t. XVI, p. 557, and the same author's "La Révision du règlement de la Chambre: Le Comité de la Chambre entière," *ibid.*, t. XVII, pp. 39-48.

present sit about and from time to time destroy the impression that the discussion is merely a duologue between the president and the reporter by offering shrewd comments prompted by special knowledge concerning particular points or by a certain point of view proceeding from the interests of a particular constituency. The somewhat cynical suggestion is sometimes heard that certain members speak merely for the purpose of having their names appear in the committee minutes.⁶⁸ Some points are discussed at considerable length. However, at the conclusion of the remarks of various members, the president of the committee summarizes the views which have been presented and offers his own opinion. This opinion is likely to prevail.

By informal methods of this kind the opinion of such committee members as are interested is sufficiently well ascertained for the reporter to be able ultimately to present to the Chamber a measure which represents the general views of the committee. If this informal method fails to secure agreement, a vote may be taken. Where voting in committee is employed, it takes several forms. The vote in elections is in theory secret. In practice, however, the elections are not infrequently made by acclaim. For ordinary decisions, voting by a show of hands is the usual procedure. At the same time, on some occasions, especially in the committee on finance, a roll of members is called and the result of the vote published.⁶⁹ In accordance with French practice, the president does not vote. In the case of an equal division of votes, the decision is regarded as negative.⁷⁰ In this way, where closeness of the vote can be foreseen in a given matter, much importance attaches to which side the wording of the question causes to be the negative.⁷¹ In the case of highly controversial measures, a minority may endeavor by obstructionist methods to prevent a vote authorizing the reporter to present his report to the Chamber. In such an instance, the necessity may arise of employing the procedure of closure. However, this step is in general not regarded with great favor in France.⁷²

The views of the committee are, of course, not always substantially identical with those of the reporter. In such case, the reporter, who after all is technically only a provisional reporter, is likely to ask that another member be put in charge of the measure, in order that the views of the committee may be more conscientiously presented to the Chamber. This

⁶⁸ Cf. Joseph-Barthélemy, *op cit.*, pp. 154, 156.

⁶⁹ Cf. *ibid.*, pp. 116-117, 136-137.

⁷⁰ Cf. Pierre, *op. cit.*, no. 747.

⁷¹ Cf. *Bulletin des commissions*, no. 10, 27 décembre 1928, p. 223.

⁷² Cf. Jèze, *Cours de science des finances et de la législation financière française: Théorie générale du budget* (6^e éd., Paris, 1922), p. 272.

is less likely to happen in the case of the committee on finance, and even in the other grand committees it does not always take place. Since most important measures are distributed among a relatively few reporters, the manifest disadvantage of changing reporters in the middle of the consideration of a measure is aggravated by the difficulty of adding to the burden of other reporters. Consequently, a reluctant reporter is at times encouraged to continue his work. The president can easily offer to take the leading part in supporting the measure before the Chamber; and the reporter may be authorized to present a supplementary report setting out his own ideas.

In the normal case, the report of a grand committee contains primarily the measure as proposed by the committee and such remarks as the reporter may see fit to write. Sometimes a measure as originally introduced and in certain cases the existing provisions of law are for purposes of comparison included in the report. Documents and other pertinent material are often appended. According to stipulations of the *règlement*,⁷³ reports must be made within a maximum period, fixed at four months in the Chamber of Deputies and at six months in the Senate, the time between sessions not being reckoned. Should this maximum interval elapse and no report be presented by the committee, *règlement* provisions give to any private member the not altogether valuable right of calling the measure before the Chamber.⁷⁴

The drafting of a report gives to the reporter his first opportunity outside the committee room to impress the world. A former administrative official of Parliament has written an amusing description of this activity.⁷⁵ "What a debauch of erudition!" runs one passage. "The reporter goes imperturbably back to the flood, instructs us concerning what was already thought on the same question by the Medes and the Assyrians, allows himself to be carried away by enthusiastic prosopopeias, and to his well-advised colleague offers cassia with the evident intention of getting in return the offer of senna. . . . For it is always practically the same ones who in turn formulate and report proposed laws. I have had in my hands reports which run to twelve hundred pages in quarto, of which eleven hundred and fifty were perfectly useless." The cost of the reports is naturally considerable. In the Chamber of Deputies, it is apparently something like 5 per cent of the annual budget of the Chamber.

When a reporter has completed his report and has received authorization by vote of the committee to introduce it before the Chamber, he

⁷³ Chamber, Art. 29; Senate, Art. 63 bis. Cf. Pierre, *op. cit.*, no. 786.

⁷⁴ Chamber, Art. 96 bis; Senate, Art. 63 bis.

⁷⁵ M. Paul Hubault, a parliamentary functionary (see Note 34).

hands it to the President of the Chamber.⁷⁶ The President theoretically announces in public session its introduction and orders it printed and distributed.⁷⁷ This formality by no means necessarily ensures that the question with which the report deals will be heard by the Chamber at an early date. The report must first find its place on what is called in France "the order of the day." Only in this case, and then only if time allows, will the Chamber begin a discussion of it.

The order of the day, or the list of proposed business, is prepared by what is known as the Conference of Presidents.⁷⁸ Until a comparatively recent date, the order of the day in the Chamber of Deputies was proposed by the President of the Chamber and approved by the Chamber. This was done, as it still is in the Senate, at the end of one sitting for the next. The circumstances were altogether unfavorable. Such members as remained until the end of the sitting stood about impatient to leave. Amid the prevailing turmoil they approved the proposals of the President or tried to gain his ear in order to plead the cause of a particular question.⁷⁹ The Conference of Presidents was instituted in 1911.⁸⁰ The original *règlement* provisions required the Conference to meet only once a month. In this and other respects, the provisions soon proved themselves inadequate. As a result, certain modifications were introduced at the time of the adoption in 1915 of the new *règlement*.⁸¹ Certain refinements of detail were made in 1920, in 1926, and in 1932.⁸² The Conference of Presidents is composed of the President and Vice-Presidents of the Chamber, of the presidents of the grand committees, and of each of the presidents of the political groups, or, in his absence, some other member designated for the purpose by the group. The Government is informed of a meeting by the President of the Chamber, and it may be heard if it so desires. The conference is convened once each week by the President of the Chamber to discuss the legislative situation in the Chamber and prepare the order of the day for the following week. It also arranges that no two grand committees with members common to both shall meet at the same time. The order of the day is submitted to the Chamber for approval, after which it is printed in the *Journal officiel* and posted in the lobbies. It may be altered by the Chamber only on the request of the Government

⁷⁶ Reporters are also sometimes appointed for the purpose of reporting to the committee rather than to the Chamber.

⁷⁷ *Règlement de la Chambre*, art. 33; *Règlement du Sénat*, art. 63. Cf. Pierre, nos. 782, 783.

⁷⁸ *Règlement de la Chambre*, art. 94. Cf. Joseph-Barthélemy, *op. cit.*, pp. 168 *et seq.*

⁷⁹ Cf. Graux, *loc. cit.*, t. XVI, pp. 551-552.

⁸⁰ At the suggestion of M. Abel Ferry. See J. O., 1911, Débs. Ch., 9 novembre, p. 2903, p. 3015. Cf. also *ibid.*, Docs Ch., S. O., no. 854 (23 mars), p. 245.

⁸¹ Cf. Pierre, *op. cit.*, nos. 803 *et seq.*

⁸² *Règlement de la Chambre*, art. 94.

or on a demand signed by fifty members, whose presence must be ascertained by roll-call.

Whether or not a committee report has found a place on the order of the day, the possibility of discussing it publicly may be destroyed by the end of the life of a legislature. Since the life of the Senate is continuous, such a case can occur only in the Chamber of Deputies. In that body, an arrangement has been made which prevents the Chamber from being deprived of the benefits of the labors of a conscientious reporter. The *règlement* of the Chamber⁸³ stipulates that a committee report from a former legislature may be revived and referred to one of the grand committees of the new legislature, if such committee request it or if the Chamber so order on the demand of twenty of its members. The committee, if it accepts the report, brings it before the Chamber and appoints a member to defend it there. If the committee feels that the report should be modified, a separate report is brought in dealing only with those points to which modifications have been suggested.

Various efforts were formerly made in the Chamber to incorporate such a rule into its *règlement*. The existing provisions were finally adopted in 1903.⁸⁴ The reporter of the committee on the *règlement* in reporting the proposal supported it with this argument: "The Chamber will no longer be seen, as in recent times, reduced to suspending its sittings or to spreading out its meetings for lack of reports to supply material for its debates."

In the Chamber of Deputies, a measure other than one already discussed in the Chamber or one sent to it after passage in the Senate, instead of following the usual course of voluntary report of a grand committee and discussion according to a place on the order of the day, may in exceptional circumstances receive immediate public discussion. According to the *règlement* of the Chamber,⁸⁵ the initiative in such a case is taken by the Government or by the author of the measure. The committee to which the measure has been referred may in this eventuality make its report at once or at any time within five days, thereby evidencing its approval of immediate debate. The Chamber may decide that the report shall be forthwith read; and complaint is sometimes made that "verbal reporting" is abused. The *règlement* stipulates that the report of the committee shall be published in the *Journal officiel* or printed and dis-

⁸³ Art. 36. Cf. Pierre, *op cit.*, no. 78.

⁸⁴ J. O., 1903, Débats. Ch., 17 juin, pp. 1996-1997. For the report on the proposal, including an account of previous efforts looking to the same end, see *ibid.*, Docs. Ch., S. O., no. 637 (15 janvier), p. 5.

⁸⁵ Art. 96. Cf. Pierre, *op. cit.*, no. 883 bis.

tributed. The Chamber may then decide to discuss the report without delay, or it may place the question at the beginning of the order of the day for the next sitting. If the committee opposes immediate discussion, it can merely ignore the matter. In this case, within a period of five days following the end of the period within which such a report should have been made, the Chamber may, on the demand of fifty members present, order immediate discussion. This demand can be the subject of only a short debate.

In principle, the proceedings of the grand standing committees are secret. Hence, out of deference to this principle, the Chambers subscribe in a general way to the traditional view, not unknown in other countries, that in debate no mention ought to be made of what has transpired in committee. Exceptions to the rule, however, are far from being unknown. Moreover, since the establishment of the *Bulletin des commissions*,⁸⁶ publication of the transactions of the committees is made in official form, if in somewhat meager proportions. Consequently, the public and more especially the press are not left completely without information. The newspapers, furthermore, have always succeeded in obtaining some knowledge of the principal happenings in committee; and the committees have always drawn up on occasion resolutions or communiqués for the purpose of communicating to the public their attitude or opinion on various matters. Desire for knowledge of committee proceedings was naturally enhanced during the World War; and proposals were unsuccessfully made at the time, calculated to result in publication of accounts of the activities of the grand committees.⁸⁷ As recently as in 1932, certain proposals for greater publicity in this respect were supported by the committee on the règlement.⁸⁸ However, the committee did not insist upon them when objection was made that too much publicity was objectionable because, among other reasons, compromise and conciliation would be rendered more difficult.⁸⁹ A stipulation of the règlement of the Chamber of Deputies⁹⁰ provides that the General Secretariat of the Chamber shall once each year prepare a report showing the state in which the labors of each grand committee happen at that time to be. In this report there is listed each question which has been referred to the various committees, along with the reporter who has been named for

⁸⁶ See Ch. IV, *supra*.

⁸⁷ See Ch. VII, *infra*. Cf. also J. O., 1915, Docs. Ch., S. O., no. 888 (6 mai), p. 365; no. 896 (6 mai), p. 401.

⁸⁸ Cf. J. O., 1931, Docs. Ch., S. O., no. 5487 (3 juillet), p. 1188.

⁸⁹ J. O., 1932, Débs. Ch., 25 mars, p. 1704.

⁹⁰ Art. 35. Cf. Pierre, *op. cit.*, no. 749.

preparation of the report upon it. Formerly, the grand committees themselves were required by the règlement to publish at the beginning of each session a summary of their work; but in practice such a summary appears never to have been published except on one occasion.⁹¹ Accordingly, the obligation was shifted from the committees to the Secretariat of the Chamber. Until 1932 the règlement of the Chamber of Deputies stipulated that the report on committee work should be placed in the *Journal officiel*. This appears never to have been done, the Secretariat contenting itself with giving the information once a year in a publication known as *État des travaux législatifs*. In 1932, the règlement was amended so as to regularize the existing situation. In 1921 an interesting resolution dealing with the work of committees was sponsored by over 200 Deputies.⁹² The arguments advanced in support of the resolution are worthy of note, though the resolution was unsuccessful. Admission was made that great progress in arriving at an orderly program of work in the Chamber had been realized by the institution of the Conference of Presidents; but complaint was made that nothing constrained reporters to bring in their reports. They were argued often to be brought in too late. The requirement of the règlement that reports must be presented in four months was asserted to be worthless. And yet, the point was made, no measure may profitably find a place on the order of the day until it has been reported. The remedy proposed by the resolution was that the Conference of Presidents should go further than the arrangement of the order of the day for a period of one week by choosing out the most important measures which ought to be heard during the session and assigning to them a definite date, with the requirement that each of these measures be reported three weeks before the date so fixed. The resolution furthermore suggested a substitute for the report of the Secretariat of the Chamber. It proposed that there should be posted in the lobbies of the Chamber and kept constantly up to date a bulletin which would show for every bill introduced the date of its introduction, the date on which its reporter was named, the name of the reporter chosen, the date of the presentation of the report, the date fixed for discussion, the date of the vote of the Chamber, and the date on which the measure was sent to the other Chamber. "This bulletin," asserted the resolution, "which would contain a schedule of parliamentary work pending, would be in itself a warning to which the Chamber and the presidents and reporters of committees could not remain indifferent."

⁹¹ Cf. Pierre, *op. cit.*, no. 749 (Supp.).

⁹² J. O., 1921, Docs. Ch., S. E., no. 3278 (28 octobre), pp. 96-97.

Committees and the Public Debate

In normal circumstances, when a report has been placed upon the order of the day and its turn at last arrives, the public discussion begins. During the public debate, which consists successively of general discussion, reading of the articles, and voting, the committee plays a principal part.⁸³ This part has been well said to be characteristic of the French parliamentary system and to be symbolized by the physical arrangement of the Chamber.⁸⁴ Special front benches, marked in gold letters on their red cloth, are reserved respectively for the Government and for the committees. "In principle, three groups of actors carry on parliamentary debate,—the Government, the committees, and the mass of Deputies."⁸⁵ In the rôle played by a committee, the president and the reporter, of course, take a principal part. This is true even where a measure is sponsored by the Government, for it must be remembered that the bill of the committee, and not that originally introduced, is discussed by the Chamber. This remains the general situation. At the same time, a provision of the *règlement* of the Chamber of Deputies⁸⁶ adopted in 1926 authorizes the Government or the individual author of a measure to claim a vote on a measure as originally framed, if and when the committee text has been defeated. Those members who desire to speak in the debate hand in their names to the President of the Chamber. In general, though there is of course much exception, arrangement is made so that speakers for and against a measure are heard alternately. No member may speak a second time until all those who wish to speak have spoken once, but speakers from the Government and the president and the reporter of the committee may speak at any time they see fit, provided that an unprivileged member may always follow one of these privileged speakers.⁸⁷ The reporter, especially, takes advantage of his privilege. "It is said," runs a critical comment,⁸⁸ "that a young Deputy charged with a report is Bonaparte at the siege of Toulon. The important thing is not to perform a piece of useful and rapid work but to attract attention." This is almost

⁸³ See *Règlement de la Chambre*, art. 83; *Règlement du Sénat*, art. 65.

⁸⁴ Cf. Joseph-Barthélemy et Paul Duez, *op. cit.*, p. 543; Joseph-Barthélemy, *op. cit.*, pp. 9-10.

⁸⁵ Joseph-Barthélemy et Paul Duez, *loc. cit.*

⁸⁶ Art. 83.

⁸⁷ For these matters, see *Règlement de la Chambre*, arts. 42 et seq. Cf. also Pierre, nos. 891 et seq.

⁸⁸ Joseph-Barthélemy, *Le Gouvernement de la France* (Paris, 1919), p. 53. This passage is omitted from the second edition of this work (Paris, 1925). The reference is apparently to the anonymous (Blum), *Lettres sur la réforme gouvernementale* (Paris, 1918), p. 48. Cf. also Joseph-Barthélemy, *Essai*, p. 180.

certainly too severe and too sweeping a judgment. If it is a recognizable portrait of many budgetary reporters and of some others, many reporters none the less perform serious and useful work. By a certain irony of fate, some reporters whose apparent aim has not been principally to attract attention have been persons who previously entertained unfavorable opinions of reporters. At all events, the Chamber not unnaturally expects the committees to possess special knowledge of the matters falling within their several spheres; and in the course of discussion, members frequently seek to know the view of the committee. This normally means that an authoritative statement is made either by the reporter, who is certain to have undertaken special study of a particular question, or by the president, who is very likely to be a man of wide experience in respect of matters pertaining to his committee. In such circumstances, a reporter can scarcely avoid a position of real or assumed leadership. When the issue involved is one concerning which the Government is neutral, no harm appears likely to result, but where a Minister is seriously interested, leadership, through a certain rivalry, tends inevitably to be divided.⁹⁹ At times, a debate becomes reduced to a discussion between the reporter and a Minister, or between a reporter and the spokesman for a committee to which a matter has been referred for its opinion, or among the three. In any case, the reporter often tends to exaggerate his importance, and sometimes he plays his rôle with such vigor that he finds himself interrupted with the pointed question whether he is a Minister.¹⁰⁰

When the general discussion has come to an end, the Chamber votes, as has been said, on the question of passing to the reading of the articles. If the vote is affirmative, the President of the Chamber proceeds to read each article and to cause it to be voted upon. It is of course at this time that amendments, additional articles, and counter-proposals are discussed. Procedure with regard to them is regulated by the *règlements*.¹⁰¹ When such measures have been introduced previous to the presentation of the committee report on the matter to which they are related, they are ordered printed and distributed and are referred to the proper committee. They are published, with the explanations of their authors, as an annex to the report of the committee which deals with the measure to which they are related. In this report, the committee gives its views on them. If such amendments, additional articles, or counter-proposals are introduced between the time of the presentation of the committee report and the public discussion of this report by the Chamber, the committee makes

⁹⁹ See Ch. VII, *infra*.

¹⁰⁰ See, for example, J. O., 1925, Débs. Ch., 27 mars, p. 1874.

¹⁰¹ Chamber, Arts. 84-87; Senate, Arts. 67-69, 91. Cf. Pierre, *op. cit.*, nos. 707, 826 *et seq.*

a supplementary report dealing with them. If public discussion is already in progress, proposed amendments, additional articles, or counter-proposals are automatically referred to the committee in charge of the bill with which they are connected, if such a demand be made by the Government or by the president or the reporter of the committee. The discussion of the measure continues, unless the proposal which has just been referred to the committee happens to have an important bearing on the following articles. If no demand is made by a member of the Government or by the president or the reporter of the committee, the Chamber, after hearing a short verbal explanation of the proposal, votes on the question of taking it under consideration. If the vote is affirmative, the proposal is sent to the committee. These provisions, which are of recent date, are intended to prevent the evils which result from improvisation during the sitting of a Chamber. "We were present," wrote a Deputy in 1898,¹⁰² "in the course of the last legislature, at the truly strange spectacle of an amendment, improvised during the sitting, the text of which, there being only one copy, passed alternately from the hands of the President to those of the reporter to those of the minister. This text was voted. It became an article of law without its being possible to make it the object of the slightest examination by any committee, without its having been possible for it to be read with reflection by the authors of the law, without its having been possible for any debate worthy of the name to take place, and without having been known, otherwise than by a rapid reading, to Deputies who had devoted entire weeks to performing a legislative work maturely elaborated." As late as 1919, a similar complaint could be made. It was at that time said that the improvisation of amendments was the source "whence come those provisions, contradictory in practice, which cause extreme embarrassment to the magistrates, when there is occasion to apply laws made in parts and pieces, and which have had to undergo during their elaboration the assault of composers of amendments and especially the counter-attacks of certain specialists in texts formulated during the sitting, without the least preliminary study as well as without reflection or concern for probable effects."¹⁰³ Even at the present time, the risk seems far from having been entirely eliminated. Complaint is frequently made of the unfortunate results of ill-considered amendments on legislation.¹⁰⁴ Even amendments which have been subjected to the required study and even other alterations which have been adopted as beneficial may well cause a measure no longer to present

¹⁰² 1898 Graux Report (see Note 19).

¹⁰³ Hubault, *loc. cit.*

¹⁰⁴ Cf. opinion of M. André Hesse, *Le Temps*, 30 janvier 1930.

the consistent whole which is desirable. In such a case, the Chamber, at the suggestion of one of its members, may send back the measure to the committee for coördination and revision. If the suggestion emanates from the committee, the recommittal takes place without the necessity of a vote by the Chamber.¹⁰⁵

The legislative function of the grand committees, important as it is in normal circumstances, becomes of even greater relative moment in the case of certain measures which in France may become law without debate in a public sitting. Such an arrangement, which had previously existed in only rudimentary form, was introduced into the 1915 *règlement* of the Chamber of Deputies. Provisions dealing with the matter were modified in several details by amendments in 1920 and in 1932.¹⁰⁶ These provisions not unnaturally regulate this exceptional but important procedure with much care. In general, a report of a committee may, at the request of the committee or of the Government, be placed at the beginning of the order of business for a given day with the condition that no debate shall take place. When such a request is made to the President of the Chamber, he so informs the Conference of Presidents at least three days before the day set; and he notifies the Chamber to the same effect. Thirty members may through a reasoned written report cause the report to be withdrawn from the order of the day. Otherwise at the time set for the hearing of such a report, one or more members may object. In such case, the reasons for objection must be immediately written out and published. They are referred to the committee involved, the report being provisionally withdrawn from the order of the day. The committee brings in a supplementary report dealing specifically with the objections which have been made. Within three days, the original report may be again placed on the order of the day. If objection is again offered, the same procedure is once more followed. If the matter appears on the order of the day for the third time, it may be withdrawn only at the request of thirty members. In the absence of objection, the President of the Chamber puts the several articles to a vote without the possibility of debate. In practice, such votes are carried out at the beginning of a sitting with little or no attention on the part of members. This is the objection which may be suggested to the procedure. On the other hand, much useful work is accomplished without the necessity of overloading the programs of public sittings.¹⁰⁷

¹⁰⁵ *Règlement de la Chambre*, art. 90; *Règlement du Sénat*, art. 92. Cf. Pierre, *op. cit.*, no. 819.

¹⁰⁶ See *Règlement de la Chambre*, arts. 97-99.

¹⁰⁷ Cf. Joseph-Barthélemy et Paul Duez, *op. cit.*, pp. 549-550; Joseph-Barthélemy, *op. cit.*, pp. 207 et seq.

The Committees and Disagreement between the Chambers

The exceptional employment in France of what are in America called "conference committees" renders such committees relatively unimportant.¹⁰⁸ In order for this kind of committee to be possible, the *règlements* of the two Chambers are, as they manifestly must be, in substantial accord.¹⁰⁹ The procedure is in broad outline accurately determined. The object of the procedure is, of course, to reach agreement on a measure which has originated in one Chamber and been modified in the other. The conference is brought about by a decision of the Chambers on the proposal of an individual member. The members chosen by the two Chambers must necessarily meet together, with the result that a single committee is in reality formed. However, from a technical point of view, two autonomous committees are considered to exist. The Senate selects eleven members on a "general ticket"; but in the Chamber of Deputies, the Chamber must decide whether to employ the committee which originally concerned itself with the measure in question or to choose a new committee for the purpose of meeting with the committee designated by the Senate. If the two committees come to an agreement, the two Chambers deliberate on the compromise reached. This solution will, of course, normally be accepted by the Chambers. On the other hand, if either Chamber rejects the report of the conference, the matter is not permitted again to appear on the order of the day for two months. In the event that the two committees fail to arrive at an agreement, the question remains *in statu quo*.

Exclusively from the point of view of legislative procedure, the establishment and the maintenance of a system of grand standing committees in France may perhaps be most fairly appraised in an almost wholly deterministic way. Conditions in the modern state commonly viewed as resulting from the Industrial Revolution have rendered inevitable in France as elsewhere the simplification of legislative procedure. All democratic countries appear to have had the same experience. An enormous quantity of work, coupled with related phenomena like obstruction and changing concepts of the obligations and opportunities of representatives, has caused legislatures to attempt various changes of procedure calculated to expedite their business. In France, circumstances of the same kind, combined with French insistence on unlimited individual initiative, inevitably

¹⁰⁸ Cf. Ch. IV, *supra*.

¹⁰⁹ *Règlement de la Chambre*, arts. 107-110; *Règlement du Sénat*, arts. 127-131. Cf. Pierre, *op. cit.*, nos. 676-678.

produced in due course a more simple and effective procedure. The procedure adopted at the beginning of the Third Republic appears in retrospect to have been doomed. The real trouble would seem to have been that, with unlimited individual initiative prevailing, the position of bureaux and committees was reversed. Experience shows that when no difficulty is placed in the way of the introduction of proposals by individual members of legislative assemblies, many more measures will be introduced than the assembly can possibly consider properly. Accordingly, some method of selecting the more worthy must be found. For this purpose neither experience nor reason suggests a more effective instrument than a committee. In France, when the committee of initiative proved itself unequal to its task, the bureaux found themselves confronted with many more measures than they could possibly consider. The problem of selection, therefore, devolved upon them, though their real function was deliberation on the principle of worthy measures. The result was, as abundant testimony indicates, that discussion in the bureaux became for practical purposes non-existent; and the flood of measures proceeded almost unchecked to the special committees. In the presence of this situation, however, these committees were no longer *special*, that is to say, their province was no longer a single measure but many measures of a related character. Thus, *special* committees became *standing* committees; and the adoption of a system of grand standing committees was in a definite sense merely a regularization of the *status quo*. In the interest of economy, useless steps could be eliminated; and the result is the present system.

Again from the point of view of legislative procedure, little doubt can exist but that the present French committee system is in the conditions superior to the old. The assertion of this fact is probably the best case that can be made for the grand committees. This was clearly recognized in the early arguments of advocates of the system of grand committees, who predicted that improvement in precisely this respect would come about.¹¹⁰

As examining bodies, the French committees are of interest largely because each has a special province. Only measures falling within this province are the concern of the related committee. Members of committees being chosen, at least in theory, because of their special competency, the individual is in this way afforded an opportunity to develop his peculiar capabilities. Such development of the special ability of members must be recognized to be of the greatest importance. At the same time, a very real difficulty arises. In the parliamentary system of government,

¹¹⁰ See Ch. II, *supra*.

a position of importance for the private member tends to become irreconcilable with the proper position of Ministers. French experience suggests at least the likelihood of divided responsibility and a corresponding lack of real leadership. The conclusion need not be that a solution cannot be hoped for. The conception is possible, and the practice perhaps realizable, that committees in a parliamentary system may be not bodies with a paramount position in the preparation and passage of legislation but bodies coördinating the positions of individual members and of the Government. At all events, the problem is not so much a question of legislative procedure as of the relation of executive and Legislature.

CHAPTER VI

THE GRAND COMMITTEES AND FINANCE

IN France as in most civilized countries, a fundamental constitutional principle requires that ultimate control of the public purse shall rest with the legislative branch of government. As a consequence, the function of financial administration devolves upon Parliament. Viewed in broad outline, this function in France as elsewhere involves on the one hand the raising and collecting of money from the people of the country and on the other the determination of the objects for which and the manner in which this money shall be expended. France of course employs a definite plan or scheme by which the expenses of government are estimated and according to which ways and means are suggested for supplying the necessary funds, that is to say, what is in general called a budget system.

Consideration and approval of the budget constitute the most important single piece of work which is performed by any modern legislature. In the accomplishment of this task, at least one of the working organs of the legislature, that is to say, at least one of its legislative committees, normally plays a part of capital importance.

The budget is in certain respects of a peculiarly special nature. In fact, several authorities on public finance hold that it is not strictly speaking a law at all.¹ However, whether or not the budget is to be regarded technically as a law, the fact is well established that final authorization of its contents, being a function of the legislature, naturally and properly takes place according to the forms to which the legislature is accustomed. Accordingly, the budget is in practice regarded as a legislative measure—no doubt of a particular kind and of especial importance. It is generally passed according to the rules of legislative procedure, modified only so far as the nature of the case renders necessary.

Historically, the control of the legislature over taxation marks, of course, a step of paramount importance in the evolution of free government. Moreover, the step was a wholly natural one. Recognition of the

¹ Cf. Jèze, *Cours de science des finances et de législation financière française: Théorie générale du budget* (6^e éd., Paris, 1922), p. 24.

fact that the people of a country may properly be deprived of their money only after the consent of their representatives had been obtained was responsible for the fact that such consent came to be considered necessary in order for taxation to be *legal*; and the raising of revenue was felt properly to be accomplished by *law*. On the other hand, one of the most interesting developments of governmental history is the fact that the right of legislatures to determine the purposes to which revenue is to be devoted, though historically recognized later than the right of consenting to taxation, has become in modern times more highly prized by legislative assemblies. The principal explanation of this fact is to be found, of course, in the opportunity which control of expenditure gives for controlling the spenders. In order to accomplish most things, money is necessary; and control of the money carries with it control of accomplishment.

The relationship of the grand committees in France to finance is naturally concerned closely on the one hand with the position of the committees in their connection with legislation and on the other with their position in connection with the executive. At the same time, the relationship is one possessed of sufficient characteristic features to warrant a special consideration of it.

In France, in the case of financial measures in general and more especially in the case of the annual budget, no great differences exist either between the original and present financial procedures or between the procedure in the passage of financial measures and that in the passage of any other legislative measure. Thus, at the present time, the budget follows the general course of any bill or resolution.² It is introduced without preliminary discussion and referred by the President of the Chamber to the grand committee on finance. It receives normally in plenary session a single deliberation, including in turn a general discussion of principle and a detailed reading and voting of the articles. The budget, it is true, is always introduced on behalf of the President of the Republic by the Minister of Finance or the Minister of the Budget; so that it is a *project* and not a *proposition*. However, the differences between these two kinds of prospective laws are no greater in the case of the budget than in the case of other legislation. Furthermore, other financial measures exist in addition to the annual budget; and in many respects unlimited individual initiative is the rule. It is also true that financial measures must according to the Constitution³ originate in the Chamber of Deputies; but here again nothing really exceptional is involved, for the Government normally follows the practice of introducing most of the important and most of

² Cf. *Règlement de la Chambre des députés*, arts. 82-83.

³ Law of February 24, 1875, Art. 8.

the controversial measures into the Chamber. Again, it is true that in the case of the budget the President of the Chamber naturally has no choice but to refer the measure to a single committee on finance; but other grand committees, notably the committee on customs, have jurisdiction over important matters connected with public finance.⁴

Nothing, it may be repeated, in the special nature of financial measures in general or of the budget in particular affects fundamentally the normal stages of present-day French legislative procedure. Further than this, financial procedure as it exists to-day differs very little from the procedure which was practised in the early years of the Third Republic. For example, even when two readings were the rule for ordinary measures, only one deliberation was employed in the case of financial measures.⁵ Moreover, since an annual grand committee on finance existed from the beginning, any real development has resulted for the most part from the recent adoption of a new method of selecting the committee on finance. As long as members of the grand committee on finance were elected in the bureaux, an additional stage was required in the consideration of the annual budget. This was, of course, preliminary consideration in the bureaux.⁶ The discussion was often, and perhaps necessarily, superficial; but it was nevertheless a part of the normal budget procedure. As a matter of fact, in the Chamber of Deputies the tradition for election in the bureaux persisted longest in the case of the finance committee.⁷ The political nature of the budget is so marked that the majority found difficulty in resisting the temptation altogether to eliminate the minority. However, French students of public finance do not hesitate to affirm that the present system of nomination by the political parties is the ideal one.⁸ At all events, the result of the adoption of the system has been elimination of preliminary discussion in the bureaux. Accordingly, the budget, after its introduction, proceeds at present immediately to a grand committee.

⁴ Cf. Jèze, *op. cit.*, pp. 260-261.

⁵ Cf. *ibid.*, p. 271; and also Pierre, *Traité de droit politique, électoral et parlementaire* (5^e éd., 2 vol., Paris, 1929), no. 816.

⁶ It was seen in Ch. IV, *supra*, that a special drawing of the bureaux was made for the selection of the budget committee in order to prevent agreement among Deputies desirous of becoming members of this important committee. Cf. Bonnard, *Règlements des assemblées législatives de la France depuis 1789* (Paris, 1926), p. 494.

⁷ Cf. Allix, *Traité élémentaire de science des finances et de législation financière française* (6^e éd., Paris, 1931), p. 198 n.

⁸ In the opposite sense are views to be found in the minutes (11^e séance, 16 mai) of the Extra-parliamentary Committee of 1913 (see Bibliographical Note, *supra*). Cf. also Ch. IV, *supra*.

Preliminary Consideration of the Budget

The initiative of proposed legislation, which is a matter of much importance in respect of all laws, is particularly important in the case of the budget.⁹ The best opinion seems to be that, in the case of the budget, initiative should be confined to the executive. In France, the system of mixed Government and individual initiative is extended to the realm of public finance; and exclusive Government initiative is confined to certain definite financial measures, of which the most important is of course the budget itself.¹⁰

Well in advance of the beginning of the fiscal year, the French Minister of Finance or Minister of the Budget sends to all of the spending departments a request that their estimates of expenses for the following year be communicated to him. He urges upon all the necessity for despatch and economy. The various Ministers determine the amounts which they consider necessary for the proper working of their departments, the Minister of Finance superintending this act for his own department. After the estimates have, according to law, been submitted to a comptroller of expenditure appointed for each department by the Minister of Finance, they are sent, together with the opinions of the comptrollers, to the Ministry of Finance. The Minister of Finance draws up an estimate of all anticipated revenues; and it is of course his great task to establish an equilibrium between proposed expenditure and anticipated income, that is to say, to "balance the budget."¹¹ The final authority in questions which may arise is the Cabinet. Here, the French Minister of Finance, according to authorities on public finance, is without sufficient power. At all events, a final conclusion must be reached in all questions connected with the efforts of the Minister of Finance to balance the budget. The proposal which is presented to the Chamber of Deputies by the Minister, in the name of the President of the Republic, is known as the budget *project*.

The budget proposal is preceded by certain introductory remarks of the Minister who has prepared it. The general financial situation is reviewed and various proposals contained in the measure which he introduces are explained and defended. There is nothing resembling the "budget speech"

⁹ Cf. d'Eichthal, "Nos mœurs parlementaires," *Revue politique et parlementaire*, 1895, t. VI, pp. 138-139; Graux, "La Révision du règlement de la Chambre," *ibid.*, 1898, t. XVI, p. 556.

¹⁰ Cf. Jèze, *op. cit.*, pp. 62 *et seq.*; Allix, *op. cit.*, pp. 16-17.

¹¹ For these details of procedure, consult Jèze, *op. cit.*, pp. 64, 154, 156. The recent practice in France, followed on several occasions, of including in the Cabinet a Minister of the Budget as well as a Minister of Finance probably cannot yet be said to be definitively established.

in England. The Minister merely goes through the formality of introducing into the Chamber of Deputies several bulky volumes of many hundreds of pages; and the President of the Chamber refers them to the grand committee on finance, after ordering them to be printed and distributed.

The annual grand committee on the budget, which was established as an exceptional committee in the Chamber of Deputies in 1876, remained exceptional until 1915. At this time it was included in the list of permanent grand committees, and it continues in this list at the present day. However, it became an annual committee again in 1920, when the duration of all the grand committees was reduced to the period of one year. In the same year, a committee on fiscal legislation, which had existed since 1907, was abolished. Its functions were appropriated by the budget committee, which came to be known as the committee on finance. Accordingly, consideration of questions both of expenditure and of revenue is for the most part concentrated in the hands of one grand committee.¹²

The committee on fiscal legislation was not without defenders, though no serious objection was offered to its abolition.¹³ The committee had undoubtedly done much useful work in the past. Naturally this work had of necessity required the consumption of considerable time; and the assertion was made that the budget committee, already sufficiently occupied with the estimates of expenditures, would be unable to find the extra time to continue the work of the committee on fiscal legislation. However, the two committees seem often to have been in conflict; they were normally brought into agreement only by their temporary fusion; and even the defenders of the committee on fiscal legislation did not object to the experiment of fusing the functions of the two committees.¹⁴

The committee on finance is much the most powerful of all the grand committees. The chief concern of the committee is of course study of the annual budget; but it considers in addition to this more measures than any other one of the grand committees.¹⁵ This is due to the fact that most proposed laws have some relation immediate or remote to public finance; and the committee on finance is called upon to examine their principles or

¹² See Ch. IV, *supra*. Cf. also *Revue de science et de législation financières*, 1920, pp. 150 *et seq.*

¹³ J. O., 1920, Déb. Ch., 24 janvier, p. 51.

¹⁴ Cf. *ibid.*, 28 janvier, p. 64. Numerous proposals in recent years have been made with a view to reviving the committee on fiscal legislation. Cf. J. O., 1925, Docs. Ch., S. O., no. 1666 (3 juin), p. 758; J. O., 1926, Docs. Ch., S. O., no. 2568 (8 février), p. 161; *Le Temps*, 31 janvier 1930; Joseph-Barthélemy, *Essai sur le travail parlementaire et le système des commissions* (Paris, 1934), pp. 310-314.

¹⁵ See various fascicules of *État des travaux législatifs de la Chambre des députés*.

to formulate an opinion with respect to their financial aspects. The committee examines, according to the *règlement*,¹⁶ the laws of revenue and of expenditure and such measures as involve supplementary or extraordinary expenditure. A provision of the *règlement*¹⁷ likewise requires the committee on finance to offer its opinion within a period of ten days on any bill, favorably reported by another committee, of which the provisions involve expenditure of public funds. The jurisdiction of the committee on finance is therefore well-nigh limitless.

The committee on finance is selected at the same time and in the same manner as the other grand committees.¹⁸ Membership on this committee is considered more desirable than on any other committee, and it is therefore more sought after than that on any other committee. Consequently, the political parties choose their most able and prominent members to fill the positions to which they are entitled on this most important of the committees. The members so chosen are called together for the first time by the President of the Chamber, as in the case of the other committees; and the committee proceeds to its organization in the same manner. On account of the importance of the committee, the president normally makes, upon assuming the chair, an address which is reported in the press. The great power of the committee and the prestige of the president combine to render his pronouncements of unusual importance. In them may be found indications of the spirit in which the Government may expect to have its financial proposals examined.¹⁹

The importance of the work of the committee on finance causes it to meet much oftener than on the one day specially set aside by provision of the *règlement* for the labors of the committees. Its study is practically continuous; and the committee has been accustomed to meet even during the hot summer days between the ordinary and extraordinary sessions of the Chamber, when other Deputies have sought the seashore or the country.²⁰ The material organization and equipment of this committee are better than those of any other committee; and every opportunity is of-

¹⁶ Art. 100. Cf. Pierre, *op. cit.*, nos. 767 *et seq.* This committee, it will be remembered, is the only grand committee which has its jurisdiction determined by the *règlement*. See Ch. V, *supra*. Cf. also Joseph-Barthélemy, *op. cit.*, p. 308, and his "Le Procès de la commission des finances," *Mélanges R. Carré de Malberg* (Paris, 1933), p. 251.

¹⁷ Art. 32. Cf. Pierre, *op. cit.*, no. 774.

¹⁸ Reference is here primarily to the committee in the Chamber of Deputies. For the slight difference as regards the finance committee of the Senate, see *Règlement du Sénat*, art. 15.

¹⁹ Cf. Pierre, *op. cit.*, no. 768.

²⁰ Cf. Joseph-Barthélemy, *Essai*, pp. 162-163. Reference to the *Bulletin des commissions* and to the daily press will indicate in any given year at what time during the summer the committee on finance is at work.

ferred to the committee to engage in serious study and to produce important results.²¹

Originally the committee on finance followed the practice of dividing itself into sub-committees. However, this has not been the case in recent times. At the same time, some authorities contend that these sub-committees possess certain very real advantages.²² The first point made in the matter is that the full committee cannot be expected to find time to examine all the proposals which are referred to it or all the details of a given proposal. This is particularly true of the proposals contained in the budget and more especially of the estimates of the various Ministries. What is proposed is that the estimates of several related departments should be examined by a sub-committee. The sub-committees, it is contended, could be convened more easily than the full committee on finance. Accordingly, the committee would be required to meet in plenary session less often than at present, and the importance of the matter for which it would be then necessary to convene it would, according to the argument, cause attendance to improve. On the other hand, answer is made that the possible advantage of a more complete discussion in sub-committee of certain aspects of the budget would be offset by the longer time which would be thereby required for the study of the budget.²³ This answer carries great weight in view of the fact that delay in voting the annual finance measures is the ill which most proposed reforms have as their aim to cure. Furthermore, experience and reason raise some doubt whether attendance in sub-committees would be markedly better than at full meetings of the committee on finance at the present day. The committee on finance now tends, as will presently appear, to be for the most part merely an aggregate of special reporters. It would probably become, if sub-committees should be revived, an aggregate of reporters of the sub-committees. In the result, no progress would be realized.²⁴

Small attendance at committee meetings, about which complaint is

²¹ Partiality to the committee on finance in respect of material assistance is stressed by M. André J.-L. Breton, *Les Commissions et la réforme de la procédure parlementaire* (Paris, 1922), p. 197, and by M. Joseph-Barthélemy in various writings, e. g., his (anonymous) "Ce qui se passe à la commission des affaires étrangères," *Revue hebdomadaire*, 7 octobre 1922, p. 87; "Le Procès de la commission des finances," *ibid.*, pp. 241 *et seq.*; *Essai*, pp. 172 *et seq.*, 278 *et seq.*

²² Cf. J. O., 1917, 28 novembre, Ministère des finances, p. 279, annexe: "Rapport général présenté le 9 mars 1914 par M. Gaston Jèze, professeur de la Faculté de droit de Paris, au nom de la commission instituée du ministère des finances, le 29 janvier 1913, pour examiner les mesures propres à assurer le vote du budget à sa date normale," pp. 284 (III), 290 (III).

²³ This argument is to be found in the minutes (13^e séance, 13 juin) of the Extra-parliamentary Committee of 1913.

²⁴ In Italy under parliamentary government, sub-committees were instituted apparently without appreciable improvement. Cf. Jèze, *op. cit.*, pp. 258, 266.

often made in connection with the other grand committees, is likewise notoriously prevalent in the case of the committee on finance, which has to make so many decisions of the first importance with respect to large sums of public money.²⁵ The results of this unfortunate state of affairs on the working of the committee are not difficult to imagine. "Too often," writes a foremost authority on public finance,²⁶ "the decisions of the full committee are taken in the presence of a few members. Attendance at sessions, which are too long and too often repeated, is with difficulty to be reconciled with the other demands of parliamentary life. It is true that the règlement of the Chamber of Deputies requires the presence in the committee of at least seventeen members; but this provision is not observed. In fact, it must be recognized that its strict application is scarcely possible. Publication in the *Journal officiel* of the names of members present at the sittings of the committee is a sanction which has been enacted but which seems to have had no effect. Consequently, the labors of the full committee are extremely disconnected. It is not always the same members who are present at succeeding meetings; and as a consequence it is necessary to spend part of the time in reviewing what was done at the preceding sessions, which a certain number of members did not attend. The result is delay and confusion."

The details of procedure in the committee on finance are for the most part the same as in the other committees. The importance and extent of the work of the committee on finance cause in these details certain modifications; but there are no far-reaching innovations in method. So far however as difference of degree is concerned, the very informality of committee procedure, combined with the paramount importance of the task of the committee on finance, renders the activities of this committee extremely formidable. To such an extent is this true that a member of an expert committee on financial procedure asserted that "it would be opportune to indicate clearly that the committee on the budget does not possess more powers than the whole Chamber and that consequently it cannot shake off the restrictive provisions of the règlement."²⁷

The committee on finance may be called upon in the course of its duration of a year to consider as many as 500 or more measures. All of these cannot, of course, be examined. However, in addition to the annual budget, the committee may dispose of a hundred or more of the measures

²⁵ Cf. J. O., 1920, Débats. Ch., 24 janvier, p. 53.

²⁶ Jèze, *op. cit.*, p. 264. Incidentally, M. Jèze would seem to be in error concerning the matter of the quorum, as is also M. André J.-L. Breton, *op. cit.*, p. 146.

²⁷ M. Maurice-Bloch, conseiller d'Etat, directeur général de la comptabilité publique, in minutes (13^e séance, 13 juin) of Extra-parliamentary Committee of 1913.

referred to it.²⁸ The practice is followed of naming reporters for various measures before the measures have been considered in full committee.²⁹ In the case of the budget, a special reporter is named to consider the estimates of each administrative department or service. A general reporter of the budget is likewise chosen. His task consists in reviewing the general financial situation, in setting out the general principles common to the several parts of the budget, and in directing the public discussion. On occasion, personal rivalry has been so great among those seeking the position of general reporter that the committee has been compelled to appoint two or more general reporters. In the case of the budget alone, about three fourths of the members of the committee have positions as reporters; and when to the budget reports are added the hundred or more other reports made in the course of a year in the name of the committee, it can easily be seen that work is not lacking for the members of the committee as individuals.³⁰

The personal nature of the method by which the tremendous task of the committee on finance is attempted is precisely what is responsible for lack of attendance and interest in full meetings of the committee. To an even greater extent than in the other committees, the president and reporters lead the committee on finance. They have even been known to make decisions without consulting the committee.³¹ However, a committee which is an aggregate of reporters is content to be led, since each member is doing with respect to a matter of which he is not the reporter only what he hopes others will do when the subject of his own report is in question. Therefore, discussion and voting in committee are in certain respects less important than in the other committees.

The committee summons witnesses, chief among whom are naturally members of the executive. The close relationship between administration and the expenditure of public funds causes practically everything to belong, at least potentially, to the sphere of action of the committee. "One committee alone can go so far as to take account of what is done in such and such a service, because it alone has the guardianship of credits. It

²⁸ Such figures can be established from various *fascicules* of *État des travaux législatifs*.

²⁹ For financial reporters, see Pierre, *op. cit.*, no. 770; Jèze, *op. cit.*, p. 262; Allix, *op. cit.*, p. 199.

³⁰ This is manifest from a cursory examination of the various *fascicules* of *État des travaux législatifs*. For an incident in connection with the matter of the distribution of the budget reports, see *Bulletin des commissions*, no. 1, 28 juin 1928, pp. 7 et seq. As early as 1879 (see J. O., 1879, 2 décembre, p. 10573), the minority complained that it was excluded from the budget committee. With the present system of election, this complaint can no longer be founded; but, within the committee, as the incident of 1928 shows, certain elements may complain that they are excluded from participation.

³¹ Cf. Jèze, *op. cit.*, p. 263.

alone is called upon to take one by one all the chapters of the budget of each ministry and in connection with each of these to pretend to know the employment which the minister has made of it, and for that reason to demand to know what is done in each ministry, in each service, in each bureau." ⁸²

The committee on finance may at any time receive from the Chamber judicial powers with respect to witnesses and evidence. However, in practice this does not often happen. The accepted explanation of this, framed in terms of the composition of the committee, is not without interest. A committee containing members some of whom have already been Ministers and all of whom hope some day to succeed to such a position hesitates to ask powers which those who might naturally take the initiative feel may at a future date be used against them, when they are serving in another capacity.⁸³ Furthermore, individual members in their capacity as reporters have their own times and means for making investigations and securing information which they desire.

The work of the committee on finance and the reports made in its name, especially in connection with the annual budget, are in marked degree, it may be repeated, the individual efforts of reporters. When the budget proposals of the Government have been submitted to the committee on finance, they are divided up according to executive department and service. Each is then subjected to as minute examination and criticism as a special reporter is able to give it. The proposals of the Government are almost certain to undergo considerable modification; and here again the measure finally approved by the committee, not the Government measure, is considered by the Chamber. So far as the actual proposals of the finance committee are concerned, the criticism is in the main not unnaturally negative and destructive. In this the committee is merciless. On the other hand, the committee is usually unwilling to take the responsibility for making constructive suggestions. Though the committee is not known for its tender regard for ministerial responsibility, it does not hesitate to affirm on occasion its unwillingness to encroach on the sphere of the Government, if this involves offering concrete suggestions of a constructive nature. In this way it can confine itself to requesting further suggestions from the Government. In fact, occasions are not unknown on which the whole of the budget proposals has been sent back to the Government as inadequate.⁸⁴ Though the relationship of the grand committees

⁸² Speech of M. Léon Bourgeois, J. O., 1890, Débs. Ch., 4 février, pp. 173 et seq.

⁸³ See J. O., 1917, Débs. Ch., 1^{er} juillet, p. 1663. Cf. *Revue de science et de législation financières*, 1917, p. 447.

⁸⁴ Cf. Pierre, *op. cit.*, no. 771; Jèze, *op. cit.*, p. 363; Allix, *op. cit.*, p. 16; *Revue de science et de législation financières*, 1903, pp. 36-37.

to ministerial responsibility is particularly important in connection with the committee on finance, substantial changes by the committee in the proposals of the Government are not necessarily regarded by the Government as indications of want of confidence in it. Consequently, unless the Government raises the question of confidence, no expectation exists that the Government will resign when the proposals of the committee are adopted, as they nearly always are, by the Chamber. The reporters of the committee are naturally influenced by this situation.

Each special reporter, usually full of ambition, exerts himself in order to examine minutely the estimates of the department or service which has been assigned to him.⁸⁸ In doing this he undertakes to inform himself of the internal affairs and working of the department or service concerned. He secures as much information as he can through the various means at his disposal; and he commonly follows the practice of appointing as his private secretary a subordinate administrative official. The functionary accepts such a position through his ambition to get on in public life; through him the reporter secures information of greater or less value. The general object of the special reporter is to present the most imposing report possible. This, of course, does not mean that his aim is to improve the condition of public finance. The activities of this agent have been pictured by a distinguished student and vigorous critic of the committee on finance in terms analogous to those which are sometimes employed with respect to the reporters of other grand committees. "Each special reporter," he writes,⁸⁹ "desirous of performing a piece of personal work, does not confine himself to submitting to the committee the observations which are suggested to him by the examination of that part of the budget which has been confided to him. He compiles a large volume not only on the appropriations requested but on the public service as a whole, on its historic origins, on its development, on its needs, on the direction which it would be well to give to it, and so on. The careful reading of such long special reports is almost impossible for the other members of the committee, for the general reporter, and for the president. For this reason, it may be supposed that in practice the full committee does not always make decisions itself and that it leaves to the special re-

⁸⁸ Cf. in these respects, Jèze, *op. cit.*, pp. 231, 262-263; (Blum), *Lettres sur la réforme gouvernementale* (Paris, 1918), p. 247; Justin, *La Responsabilité du parlement sous le régime parlementaire* (Paris, 1918), p. 17. "In practice, the special reporters and the general reporter are masters of the budget," say MM. Barthélemy Robaglia and Frédéric Brunet in the foreword to a proposal made by them. See J. O., 1925, Docs. Ch., S. E., no. 2177 (8 décembre), pp. 295-296. Cf. also J. O., 1929, Docs. Ch., S. E., no. 2398 (3 novembre), pp. 154-155.

⁸⁹ Jèze, *op. cit.*, p. 264. Cf. also 1917 Report of Extra-parliamentary Committee of 1913 (see Note 22), p. 284 (III).

porters to present, as emanating from the committee, opinions which are purely personal. Each special reporter, therefore, not only has the initiative; he often even makes the decision. If the Minister interested does not accept the criticism of the reporter, he must appeal from it to the whole committee. Sometimes illusion is not even possible; for the special report is distributed to the members of the Chamber a few minutes before the public debate."³⁷ Such activities of these special reporters, the exaggerated seriousness with which they undertake their task, their meddlesomeness, and their voluminous reports have received from many other French students of public finance a certain amount of attention prompted by sentiment varying between resigned humor and reforming ardor.³⁸ In the second respect, the suggestion has been made that the institution of sub-committees on finance would bring the needed solution. "Only the reform proposed," says an expert,³⁹ "will make it possible to prevent the reports from being the expression of the individual opinion, which is not even always the personal opinion, of the reporter."

The text of the committee on finance, which, as in the case of the other measures, forms the basis for discussion of the budget in the Chamber, is contained in the various reports made in its name. These reports fill many bulky volumes and run to thousands of pages. The budget involves approximately thirty special reports, as well as many supplementary reports and the general report or reports of one or more general reporters. No pretense is made that these reports are confined to the estimates or to the revenue proposals. The general situation with respect to the various subjects dealt with, such as the army, the navy, agriculture, and the like, is reviewed at length; and questions of the highest policy are freely criticized. This fact is the basis of the most fundamental criticism which authorities on public finance bring against the French system of preliminary budget discussion, for ministerial responsibility and the parliamentary system are involved.⁴⁰ So far as the reports are concerned, their reduction to smaller proportions would undeniably result in the saving of much time, effort, and expense. With a view to this accomplishment, the suggestion has been made that in the Chamber one volume should contain the special and general reports, as was for a long time the practice in the

³⁷ Sometimes, apparently, the debate takes place with no report before the Chamber. See Joseph-Barthélemy, *Essai*, pp. 321-322.

³⁸ Opinions similar to those already cited are to be found expressed by MM. Laurent and Cauwès in the minutes (11^e séance, 16 mai) of the Extra-parliamentary Committee of 1913. Cf. also Dupriez, *Les Ministres dans les principaux pays d'Europe et d'Amérique* (3^e éd., 2 vol., Paris, 1893), t. II, p. 423; Say, *Nos finances* (Paris, 1896), p. 24; Allix, *op. cit.*, p. 199.

³⁹ M. Maurice-Bloch. Minutes (13^e séance, 13 juin) of the Extra-parliamentary Committee of 1913.

⁴⁰ Cf. Ch. VII, *infra*.

Senate.⁴¹ The reports contain documents of one sort or another in great number, and some of them are of undoubted value. Those which are furnished by the Department of Finance would indubitably carry more weight and be more valuable if they were presented by the Government under its responsibility. "It would be an exaggeration," writes a critic,⁴² "to say that all of the reports of the parliamentary committee are devoid of value; but that is true of the majority."

The Budget before the Chamber

The reports made in the name of the committee on finance experience no great difficulty, of course, in finding their way to the order of the day. In practice, if the budget *project* is introduced on time by the Government, the whole of the ordinary session is normally spent by the committee on finance in its examination of the budget. As a rule, the budget comes before the Chamber in its extraordinary session; so that the committee on finance is in practice able to work on the budget during the summer. The general report of the committee is said commonly to be antedated, so as to give the impression to the public that the committee has been more expeditious in its study than has really been the case.⁴³ Inasmuch as the extraordinary session regularly begins in the late autumn, only a few weeks are left in which the budget measure must be debated and passed, if its passage is to be completed by the first of January, at which time the fiscal year in France begins. In reality, the Chamber has rarely succeeded in voting the budget on time. The approval of the Senate and agreement between the Chambers have of course still to be secured.

Failure to vote the budget by the beginning of the year renders necessary the voting by Parliament of exceptional grants on account, known as *provisional twelfths*. The committee on finance plays a part, analogous to that which it performs with regard to the budget, in preparing the suggestions for the twelfths and in directing their passage in public session.⁴⁴

⁴¹ This view is expressed by M. Cauwès in the minutes (13^e séance, 13 juin) of the Extra-parliamentary Committee of 1913.

⁴² Jèze, *op. cit.*, p. 231.

⁴³ Cf. Jèze, *op. cit.*, p. 263 n.

⁴⁴ *Règlement de la Chambre*, art. 100. Cf. Pierre, *op. cit.*, no. 773; and also Jèze, *op. cit.*, pp. 160-164. Considerations concerning these provisional grants belong to the general theory of public finance and not to a study of the relation of the grand committees to finance. At the same time, note may be made of the fact that students of French finance join in condemning delays in voting the budget and the consequent system of provisional twelfths. "Return to good financial order by suppression of provisional twelfths," said in 1904 M. Doumer, at that time president of the budget committee in the Chamber of Deputies, on the occasion of taking the chair, "puts an end to the waste in expenditure which follows in the wake of a delayed voting of the budget." Quoted 1917 Report of Extra-parliamentary Committee of 1913 (see Note 22), p. 280 n.

Public debate of the budget, like that of an ordinary law, normally includes a general discussion of principle and a detailed consideration and voting of the separate parts. Such a procedure, in the case of the budget, possesses the virtue of corresponding to the dual political and financial nature of the budget. Those who would stress the purely financial aspect of the budget emphasize the importance of the detailed discussion at the expense of the general debate. Such emphasis, it is held, is calculated to result in more valuable examination of public finance and in a saving of time. With this end in view, the general discussion of the budget has on occasion been eliminated in the Chamber. However, such action is manifestly difficult to defend on principle. Extremists at the other end hold that the political nature of the budget so far outweighs its financial aspect that only the general discussion is valuable or necessary.⁴⁵ The truth undoubtedly lies between the extremes.

In the general discussion, the Minister of Finance and the members of the committee on finance, more especially the president and general reporter, naturally play the most important parts. The whole situation is merely the best and most important single example of relations characteristic of the French variant of the parliamentary system. The general reporter, in particular, takes his position, as do in lesser degree the special reporters, very seriously. Though the best theory would seem to give a preponderating influence to the Cabinet and to the Minister of Finance, the intervention of the general reporter in the discussion is usually not made in order to support the Government. The reporter is more than likely to conceive himself at least the equal of the Minister; and here again such rivalry means friction, divided responsibility, and other unfortunate results. The reporter is on the whole considered to represent the Chamber against an agent of a suspected executive. As such the reporter is in some sense regarded as more directly representing the public interest. His prestige is generally much enhanced by this fact. Though the reporter is recognized to be a possible and in some cases even a probable successor to the Minister of Finance, it is as the representative of the Chamber, which is the guardian of the public funds, that he is quoted by the foreign as well as the French press, perhaps more often than is the Minister of Finance, as the recognized authority on the financial situation and policy of the nation.

The special reporters take a similar if less authoritative part in the debate. Whenever in the general discussion and more especially in the detailed consideration of the budget that part of the work which has been allotted to a special reporter is before the Chamber, the special reporter

⁴⁵ Cf. in these respects, Jèze, *op. cit.*, p. 271; Say, *op. cit.*, p. 27.

conceives himself to have succeeded to the position of the general reporter and thus to have replaced the Minister of Finance. The fact that the work of the special reporter is largely of a personal nature, though the decisions have been nominally approved by the committee, has an inevitable effect on the debate in the Chamber. "In these circumstances, the special report has no other prestige than that of its author; and not only does it not hasten the public discussion, but through the controversy and the recriminations which it sometimes arouses, the debates are uselessly drawn out in length."⁴⁶ A special reporter and the general reporter have been known to engage in altercation on the floor of the Chamber.⁴⁷ The general reporter, being of course the interpreter of the general views of the committee on finance, may on occasion insist that the special reporter is speaking only in his personal and individual capacity, though his right to do this cannot be denied. In the conditions, the distinction between committee views and personal opinions is naturally not always clearly understood. The special reporter has his own conception of the ideas of the committee with respect to his part of the budget; and inasmuch as both reporters are in a sense expressing personal opinions, the Chamber sees its time consumed by not altogether edifying passages between those who ought to be in agreement before the public discussion is opened.

Perhaps the most important single consideration connected with the detailed discussion of the budget is the question of amendments and of other provisions calculated to alter the approved form of the budget.⁴⁸ Long experience shows that legislative assemblies tend inevitably to waste the public funds. This is of course due principally to the fact that individual interests are allowed to outweigh the public good and that the members of legislatures exert themselves to secure the voting of money for particular ends. "If legislative improvisations are always dangerous," wrote an experienced Deputy in 1898,⁴⁹ "they are especially so as regards finance. For many years past, and especially in the course of the last year of each legislature, amendments which have only too justly been called 'electoral amendments,' having as their principal object the augmenting of the salaries of various categories of functionaries, are voted with an extreme facility in spite of the resistance of the Government and of the committee on the budget." This tendency, which in England has

⁴⁶ Jèze, *op. cit.*, p. 264.

⁴⁷ Cf. Pierre, *op. cit.*, no. 770.

⁴⁸ This position is stressed in the minutes (13^e séance, 13 juin) of the Extra-parliamentary Committee of 1913.

⁴⁹ M. Graux in his report, J. O., 1898, Docs. Ch., S. O., no. 250 (12 juillet), p. 1491.

been met by confining initiative in matters of finance to the Government, is in France closely connected with the spirit which causes unlimited individual initiative to be regarded as an inalienable right. In spite of the fact that individual initiative in this respect has been vigorously criticized by such influential Presidents of the Chamber as Gambetta and Deschanel,⁵⁰ this spirit has up to the present been successful in resisting efforts which have been made to establish by *règlement* a practice similar to that which on the whole has given satisfaction in England.⁵¹ However, the question has received considerable attention in France, and some improvement has been realized. In the circumstances, the grand committee on finance is naturally and inevitably connected closely with existing practice.

Though the text of the budget act which forms the basis of discussion in the Chamber of Deputies is usually said, no doubt by way of contrast with the situation in England, to be the text of the committee and not of the Government, it is in reality a combination of proposals emanating from two sources. Its real or immediate source is the committee in the sense that without raising the question of confidence in the Government the committee is in a position to make both detailed and fundamental alterations in the proposals of the Government. So far as expenditure is concerned, the practice of the committee on finance is generally, though by no means always, to suggest economies in the proposals of the Government.⁵² That which is technically involved in "amendments" is rather the effort on the part of individual Deputies to modify, usually by increase, the proposals contained in the text of the committee. It was to remedy the waste which experience showed to result from such amendments that the present provisions of the *règlement* were drawn up.⁵³

An initial provision of the *règlement* of the Chamber⁵⁴ prevents individual members from introducing amendments or additional articles calculated to increase expenditure or to reduce income, except within a period of ten days following the distribution of the report which deals

⁵⁰ See *ibid.* Cf. also *Revue du droit public*, 1911, t. 28, pp. 719-730.

⁵¹ This is, of course, the well-known Standing Order No. 66, alluded to above, by which the House of Commons binds itself not to consider any proposal for increasing expenditure, unless it be a proposal of the Crown. It is interesting to note that in 1920 (J. O., 1920, Débts. Ch., 28 mai, p. 1657) M. Joseph-Barthélemy stated in a public sitting of the Chamber of Deputies that the Standing Order in question is never applied.

⁵² Jèze, *op. cit.*, p. 66; Allix, *op. cit.*, p. 17. On the extravagance of the committee on finance, consult Joseph-Barthélemy, *op. cit.*, p. 336. At page 362 of the last-mentioned work, M. Eugène Lautier is quoted and supported in his designation of the committee as "the grave-diggers of the budget."

⁵³ Cf. in this respect, J. O., 1920, Docs. Ch., S. O., no. 493 (9 mars), p. 341; *ibid.*, Débts. Ch., 28 mai, pp. 1656 *et seq.*

⁵⁴ Art. 101. Cf. also Pierre, *op. cit.*, no. 708; Jèze, *op. cit.*, pp. 68-69.

with that part of the budget concerned. This prohibition applies only to amendments to the annual budget law, the law regulating direct taxes, and such laws as establish new credits. Individual initiative remains completely unlimited and unmodified in respect of the introduction of special laws themselves and in respect of amendments and of additional articles relating to measures which do not fall into one of the three categories specially mentioned. Furthermore, within the stipulated period of ten days, amendments and additional articles relating to any sort of measure may be introduced by private members. The only real advantage of the provision, therefore, is to prevent during the budget discussion the improvisation of amendments calculated to increase expenditure.

Amendments of a financial character are regulated not only by the rules dealing in general with the treatment of amendments in the Chambers but also by a few special provisions of the *règlement* concerned particularly with financial amendments. In the first place, if an amendment be introduced involving the reduction or suppression of an item of revenue or the increase of an existing expense or the establishment of a new one, the amendment may be automatically disjoined from the budget or other measure with which it is connected at the request of the Government, the committee on finance, or another committee which has in charge the matter involved.⁵⁵ A protest based on the contention that the amendment does not fall within one of the classes stipulated cannot be sustained if the general reporter or a special reporter asserts that the provision of the *règlement* is applicable. An amendment of such a kind disjoined in such a way is referred to the committee and regarded as a new bill. If then, however, the measure is not reported within the regular period of four months, the request that it be placed on the order of the day may not be made by the author alone, as in the case of an ordinary measure, but may be made only if supported by fifty members.⁵⁶ If a properly supported request is made, debate must be postponed for a week for the specific purpose of allowing the committee on finance to be consulted. Furthermore, if the amendment in question does not contain provisions guaranteeing the continuance of the service affected by revenue of which the decrease or suppression is proposed or instituting a means of meeting new or increased expenditure which is proposed, the amendment may not be placed on the order of the day except at the request of the Government. Of especial interest among the provisions of the *règlement* dealing with financial amendments is a stipulation which attempts to

⁵⁵ *Règlement de la Chambre*, art. 86.

⁵⁶ *Ibid.*, art. 96 bis.

prevent the practice of "tacking" or the employment of "riders."⁵⁷ In respect of this practice, the committee on finance has not seldom been an offender. The provisions in this respect, introduced into the règlement of the Chamber in 1920, in reality added nothing to a statutory stipulation already existing. All remain without practical effect.⁵⁸

In the matter of extravagance resulting from individual initiative, custom and habit are manifestly more important than formal regulations. In France, the committee on finance has established and maintained the practice of refusing to report favorably, if the Government is opposed, any amendment or similar proposal referred to it.⁵⁹ Clearly this does not mean that the position of the Government is highly satisfactory in matters of public finance. At the same time, the private member is reduced to a position not unlike that in which he finds himself in the justly admired English practice.

The Budget in the Senate

When the budget and other financial measures have been voted in the Chamber of Deputies, they are of course sent on to the Senate. In the Senate, they are referred to another grand committee on finance. Since the budget comes to the Senate extremely late, the Senate and its committee are unable to make a long study of the proposals voted by the Chamber. In practice, the grand committee on finance, which has existed in the Senate since the beginning of the life of the Senate, studies the annual budget proposals simultaneously with the Chamber. Inasmuch as no part of the budget is sent to the Senate until the whole has been voted by the Chamber, the study of the committee on finance in the Senate is of course unofficial. On the other hand, this unofficial study is easily possible, for the final form of the various parts of the budget is for all practical purposes known as soon as each part is voted. In this way, the annual finance measures do not come to the Senate as absolutely new material for study.⁶⁰ On the other hand, an expedient is sometimes practised by the Chamber of Deputies which, if it should become a fixed custom of that body, would prove a great misfortune to the committee on finance in the Senate. This is the practice of disjoining in the Chamber

⁵⁷ *Ibid.*, art. 102. Cf. Pierre, *op. cit.*, no. 851; Jèze, *op. cit.*, pp. 53-55.

⁵⁸ Cf. further in this respect J. O., 1930, Docs. Ch., S. O., no. 2993 (12 mars), p. 256; Joseph-Barthélemy et Paul Duez, *Traité de droit constitutionnel* (2^e éd., Paris, 1933), pp. 809-810; Joseph-Barthélemy, *op. cit.*, pp. 326 *et seq.*

⁵⁹ Cf. Jèze, *op. cit.*, p. 67; Allix, *op. cit.*, p. 20.

⁶⁰ Cf. Jèze, *op. cit.*, p. 261; Allix, *op. cit.*, p. 200.

all controversial parts of the budget and of postponing their consideration until such time as all the other parts have been passed.⁶¹

Differences of method in the case of the committees on finance in the two Chambers are for the most part those which result from differences in the temperament and tradition of the Senate and the Chamber. The committees on finance in the two Chambers undoubtedly exert an influence one on the other. A closer coöperation between the two committees might very possibly decrease to some extent the tendency in France for the budget to be treated like a tennis-ball. At the same time, the overbearing attitude of the committee of the Chamber appears to be a serious obstacle to improvement of this kind. The committee has been known, in spite of its own notorious habits, to request the Government to use its influence in order to hasten the study of financial measures by the Senate committee.⁶²

Execution of Budget Provisions

The committees on finance do not cease their connection with the budget measure after it has become law. As a matter of fact, they are given by law a certain amount of special power to control the carrying-out of the provisions of the budget.⁶³ The fact that the committees on finance are in large measure aggregates of reporters is in practice recognized by law, for the most important of the acts involved not unnaturally vests in the committee reporters this power of control. A law of June 30, 1917, in one of its articles, contains the following words: "The reporters of the committees on finance in the two Chambers are charged with the task of following and controlling in a permanent manner the employment of the appropriations contained in the budgets of the various ministerial departments. To these reporters shall be furnished all information connected with the budget of such a nature as to facilitate their mission. Moreover, a report of the current work and of the situation with respect to the appropriations shall be communicated to them on the first of October of each year." This measure was, somewhat strangely, voted at the suggestion of a former Minister of Finance.⁶⁴ Less surprising are the reasons for the control advanced by a reporter of the committee on finance in the Chamber. He asserted that the provision was necessary in

⁶¹ This practice is discussed in the minutes (7^e séance, 11 avril) of the Extra-parliamentary Committee of 1913. Cf. also the Committee's Report (see Note 22), p. 290 (VII); and Jèze, *op. cit.*, p. 246.

⁶² Compare, for example, J. O., 1909, Débs. Ch., 18 juillet, p. 2139.

⁶³ Cf. in this matter Jèze, *op. cit.*, pp. 266-268; Allix, *op. cit.*, pp. 426-427; *Revue de science et de législation financières*, 1917, pp. 446 et seq.

⁶⁴ M. Caillaux.

view of "the difficulties which we encounter in obtaining the information and the explanations which are indispensable for us when we, the reporters of the committee on the budget, wish conscientiously to exercise our mandate of comptroller." ⁶⁵

Several general provisions of law also exist which are principally concerned with securing various reports for the committees. A few special provisions deal for the most part with questions of national defense.⁶⁶ All of these are intended to give effect to a new principle, that the Legislature ought to exercise a constant supervision over the spending departments and not merely to examine their actions after the spending of the money appropriated. However, the efforts appear to have been of doubtful value. "In reality, all these powers, so formidable on paper, are without great efficacy. It rests with the administrative departments to render them of no avail by not communicating documents, in spite of the stipulations of law; and on the other hand it is not certain that the finance committees manifest great energy in exacting them." ⁶⁷

Proposed Reform of Financial Procedure

The action of the French Parliament with respect to the budget is generally recognized to be unsatisfactory. That the annual budget law is practically always voted several months late is a matter of fact. The evils which result from this delay, though there is perhaps some room for difference of opinion, are for the most part admitted. Many Deputies have for years stressed in their election circulars the importance of voting the budget on time. However, their ardor perceptibly cools once the election has been decided. Nevertheless, serious attempts have been made to determine the cause or causes of the generally unsatisfactory situation. The simple assumption has of course been that remedial attempts should be based on careful ascertainment of real defects.

A search for weak points naturally involves investigation of the three principal stages of budget procedure: the preparation, the preliminary discussion, and the debate and voting. Since the several stages are inter-related, the committees on finance play a part in connection with all of them. At the same time, their principal part is of course connected with the second aspect of budget procedure, that is, with the preliminary study and discussion of the annual finance laws. In this respect, a simple but important consideration imposes itself from the beginning. Much ad-

⁶⁵ M. Grodet. See J. O., 1917, Débs, Ch., 1^{er} juillet, p. 1663. Cf. Jèze, *op. cit.*, p. 267 n; *Revue de science et de législation financières*, 1917, pp. 446-448.

⁶⁶ Cf. Jèze, *op. cit.*, pp. 267-268; Joseph-Barthélemy, *op. cit.*, pp. 314 et seq.

⁶⁷ Jèze, *loc. cit.*

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verse criticism has been brought against the results of the French system. To such an extent is this true that the suggestion has been made by more than one eminent French authority that the grand committees on finance should be abolished.⁶⁸ Any substitute which critics are likely to propose would necessarily differ in more than one important respect from the present French system.

Most countries recognize that a preliminary study of the budget is necessary in conditions more favorable than those offered by the formal oratorical procedure of a public sitting of the legislature. In general, two systems prevail. On the one hand, the Continental countries of Europe tend to follow France in instituting a comparatively small committee, which studies in detail the proposals of the Government and prepares the way for public discussion. The other system is the British, according to which preliminary discussion takes place in committee of the whole house. The proposals of the Government receive a preliminary hearing at the hands of all the members of the House, deliberating in a less formal manner than that observed at a regular sitting. Both these systems have their advantages and their disadvantages. In fact, in a considerable degree, the defects of the one appear to be matched by the virtues of the other. Thus, the French authorities who have advocated the abolition of their own system have favored for the most part the conscious adoption of the British system.⁶⁹ On the other hand, English students have been pitiless critics of the present British system⁷⁰; and in this criticism a pronounced tendency has manifested itself in favor of an attempt to realize certain virtues which the French system is felt to possess. The suggestion immediately presents itself that the ideal is to be sought through a combination of the two systems in such a way as to realize the advantages of both systems without their defects. However, in no field more than in this do practice and theory fail to coincide. Political institutions, it ought never to be forgotten, are by no means sure to thrive out of their own environment. Important as are formal institutions, often political habit, custom, and discipline are in reality determining factors. Without these qualifications, comparison of the French and British systems is largely valueless.

In favor of the French system of a small committee, the argument is made that a few members are better suited than a large body to

⁶⁸ M. Jèze (*op. cit.*, p. 253 n) cites Stourm (*Le Budget*, 3^e éd., p. 279), P. Leroy-Beaulieu (*Science des finances*, 6^e éd., t. II, p. 49), Say (*op. cit.*, p. 27).

⁶⁹ Jèze, *loc. cit.* Cf. also J. O., 1886, Docs. Ch., S. O., no. 585 (27 mars), p. 1306; J. O., 1892, Docs. Ch., S. O., no. 2025 (29 mars), pp. 722-723; Joseph-Barthélemy, *op. cit.*, p. 356; *Le Temps*, 2 février 1930.

⁷⁰ See, e. g., *Ninth Report (Procedure of the House) from the Select Committee on National Expenditure* (London, 1918), p. 3 (2).

undertake a serious and minute study of any proposals referred to them. They would seem to be able with less difficulty to meet frequently and deliberate calmly. They may in more favorable conditions hear witnesses, more especially members of the Government; and in the latter case keen criticism is possible without the necessity of introducing the question of confidence in the Government. An eminent French authority on public finance does not hesitate to affirm that these theoretical considerations are decisive in favor of a small committee.⁷¹ An extra-parliamentary committee of experts,⁷² which was appointed by the Minister of Finance in 1913 in order to make suggestions for improvement in French budget procedure, likewise concluded against the British system. Their conclusion was based on the simple consideration that in Great Britain, "the conditions of parliamentary life as well as of political organization are in no way the same as in France."⁷³

On the other hand, the committee of experts of 1913 recognized that certain disadvantages of the French system are experienced in practice. "In rejecting the English system," asserted an expert who had made a special study of preliminary examination of the budget, "and in thereby implicitly maintaining that of examination by a committee, we do not pretend to point out an ideal system but simply the best practical solution."⁷⁴ The general report of the committee pointed out several defects of a particular nature in the French system. The first of these to which attention was directed was the practice of special reporters. The committee was convinced that this practice results in an exaggerated assumption of importance on the part of the special reporters and that their voluminous reports contain large quantities of irrelevant material and too much represent the personal views of the reporter.⁷⁵ The committee found another disadvantage in small attendance at committee meetings with its resulting evils.⁷⁶ Objection of a general nature was even more strongly stressed by the committee. It found that the committee on finance in the Chamber in practice encroaches too much on the domain of the executive.⁷⁷ The general reporter of the extra-parliamentary committee summarizes the views of its members in severe language. "In France," he writes, "the budget of expenditures, in appearance presented

⁷¹ Jèze, *op. cit.*, p. 250.

⁷² Reference has already been made several times to this committee. For its composition, see its Report (see Note 22), p. 279 n.

⁷³ *Ibid.*, p. 280, § 2 (I).

⁷⁴ The conclusions of the special study of M. Cauwès are included in the minutes (13^e séance, 13 juin) of the committee.

⁷⁵ Report (see Note 22), pp. 284-285 (III).

⁷⁶ *Ibid.*

⁷⁷ *Ibid.*, p. 284 (IV).

by the whole Government but in reality by each minister for his department, is thrown into confusion by the committee on finance of the Chamber of Deputies, whose meddling spirit and encroaching action are notorious throughout the entire world. It is less a committee for study than a group of 'shipwreckers' of the Ministry in power, impatient to replace it."⁷⁸ These views of the extra-parliamentary committee appear to represent an effort strongly to condemn a tendency. Accordingly, the author of the report has undoubtedly employed some exaggeration. At any rate, his final individual verdict is that the advantages of the system outweigh its defects.⁷⁹ Defects, however, remain. As a result, need for change is recognized and suggestions for improvement are made even by students who are unwilling to follow to the end the authorities who propose abolition of the existing system in favor of the British method.⁸⁰

Of the proposals for budgetary reform brought forward by the extra-parliamentary committee of 1913, several had to do with the committee stage. That which maintained the desirability of the proportional representation of the political parties in the membership of the committee on finance⁸¹ was in the process of being realized at the time that the extra-parliamentary committee was conducting its investigations. The proposed reform has now become the normal practice in both Chambers. Any current criticism directed by students of public finance at the method of selection is more likely to be concerned with stultification in practice of the method than with the principle of the method.⁸² A second reform proposed by the extra-parliamentary committee involved re-institution of sub-committees in the committee on finance.⁸³ The hope of the extra-parliamentary committee was that "work would gain in efficiency, in authority, and also in rapidity, which is the question." In reality, likelihood of fulfilment of the hope is not very strongly supported by earlier experience with sub-committees in France. At the same time, no serious objection, it would seem, can be offered to attempting once more this procedure.⁸⁴ The final suggestion of the report of the

⁷⁸ Jèze, *op. cit.*, préface, p. iv. For further strictures by M. Jèze on this "nefarious committee," see *Journal des finances*, 15 mars 1931.

⁷⁹ Jèze, *op. cit.*, p. 266.

⁸⁰ Cf. Joseph-Barthélemy, *op. cit.*, p. 355.

⁸¹ 1917 Report of Extra-parliamentary Committee of 1913 (see Note 22), p. 284 (II), p. 290 (II).

⁸² Cf. in this respect Ch. IV, *supra*. With reference to the inexact working of proportional representation, especially in connection with the committee on finance, consult the accounts of M. Joseph-Barthélemy in "Le Procès de la commission des finances," p. 247; *Essai*, p. 284.

⁸³ 1917 Report of Extra-parliamentary Committee of 1913 (see Note 22), pp. 285 (III), 290 (III).

⁸⁴ The proposal is likewise sometimes made that various parts of the budget should be sent to several different grand committees. See, for example, J. O., 1924,

extra-parliamentary committee took the form of an admonition. The committee on finance in the Chamber was advised to refrain from encroaching on the domain of the executive. "It would be desirable," runs the succinct report, "that the budget committee should confine itself strictly within its own prerogatives of preparatory examination and not usurp the prerogatives of the Government."⁸⁵ To this the general reporter adds elsewhere his individual opinion. "The members of the finance committees," he says, "ought not to consider themselves the rivals and heirs of the Minister of Finance in power and ought not to play the rôle of 'shipwreckers' of the Ministry."⁸⁶ Accordingly, in the end, the need is recognized to be for change not in institutions but in habits. Such change is slow but indispensable. It is desirable but difficult. "The question may be asked," said one of the experts of the extra-parliamentary committee, "what reform can change this state of affairs if parliamentary habits are not themselves modified. It is indispensable that the true responsibility be put in clear relief, in order that the belief may not exist that the measures suggested by the committee are other than palliatives and in order that Parliament may not be given the dangerous illusion that the true remedy can be found outside itself."⁸⁷

In spite of recognized shortcomings, then, the committees on finance in France appear unlikely to be disestablished. "It is none the less understandable," writes an eminent student, "that British statesmen, with experience of the results in France and Italy, hesitate to institute a committee on finance of the French or Italian type."⁸⁸ At the same time, consideration of the budget in committee of the whole house, especially in respect of the estimates of expenditure, has been subjected to considerable criticism. The primary argument against the committee of the whole house takes the form of the assertion that its size is too great for serious scrutiny of the financial proposals to be possible. In its discussion is well

Docs. Ch., S. E., no. 996 (30 décembre), p. 473; J. O., 1925, Docs. Ch., S. E., no. 2177 (8 décembre), p. 295; J. O., 1929, Docs. Ch., S. E., no. 2398 (13 novembre), p. 154; *Le Temps*, 31 janvier 1930. In opposite sense, consult report of M. Joseph-Barthélemy, J. O., 1925, Docs. Ch., no. 1666 (3 juin), p. 760. A special case of this kind of proposal is the attempt to revive the committee on fiscal legislation (see Note 14).

⁸⁵ 1917 Report of Extra-parliamentary Committee of 1913 (see Note 22), pp. 285 (IV), 290 (IV).

⁸⁶ Jèze, *loc. cit.*

⁸⁷ This opinion of M. Privat-Deschanel, procureur général près la cour des comptes, is to be found in the minutes (1^{ère} séance, 14 février) of the Extra-parliamentary Committee of 1913.

⁸⁸ Jèze, *loc. cit.* On the other hand, Mr. Bonar Law had said in 1919 (Parl. Debs., Feb. 20, 1919, Vol. 112, 1278) that he was not sure but that sooner or later England would be constrained to adopt a system not unlike the French. Cf. also Joseph-Barthélemy et Paul Duez, *op. cit.*, p. 805; Joseph-Barthélemy, *Précis de droit constitutionnel* (Paris, 1933), p. 275.

known to take the form of criticism of the Government. The Ninth Report of the Select Committee on National Expenditure of 1918 asserts⁸⁰ that there is "a consensus of opinion that the present system of Parliamentary control over expenditure is inadequate. . . . The committee of the whole House on Supply has the name, but has none of the methods, of a committee. . . . So far as the direct effective control of proposals for expenditure is concerned, it would be true to say that if the estimates were never presented, and the Committee of Supply never set up, there would be no noticeable difference." In these conditions, a preliminary examination in the French sense clearly does not take place. Accordingly, no real reason exists for a general discussion to follow. Inasmuch as the discussion in committee deals purely with questions of policy, any general discussion in plenary session tends to be a mere repetition of this. Over against this objection two indisputable advantages, one positive and the other negative, may be placed. The British system draws fully the logical conclusion from the essentially political nature of the budget. "The debates in Committee of Supply are indispensable for the discussion of policy and administration."⁸¹ In the second place, the British system effectively avoids encroachment of the legislature on the proper sphere of the executive. Ministerial responsibility remains uncompromised. Thus, if practice rather than theory be invoked, as good a case can doubtless be made out in England as in France for the view that the advantages of the system outweigh the disadvantages. The British system is well known to be the result of historical accident, of particular conditions, and of peculiar national characteristics. This may well be an argument against transferring it to another environment, although it does not alter the fact that the practical results of the system are for the most part satisfactory. The system is often a source of envy, if not a model for imitation.

Proposals for reform of the British system involve principles which are peculiarly pertinent to a consideration of existing conditions or suggested reforms in France. In England an initial proposal is concerned with what is known as an Estimates Committee. The institution of this form of small committee, which had previously been attempted as an experiment, was again recommended by the Select Committee on National Expenditure of 1918.⁸¹ In fact, the Report suggested that the previous experiment with an Estimates Committee should be extended and that

⁸⁰ P. 3 (2, 3, 4).

⁸¹ *Ibid.*, (4). The enquiring student may find a great wealth of material concerning these matters in the *Special Report from the Select Committee on Procedure on Public Business* (London, 1931).

⁸² Cf. *Ninth Report*, pp. 4 et seq., 8 (292).

two such committees should be instituted. The possibility was recognized that experience might even show additional committees of the kind to be desirable. The purpose of the establishment of such committees is of course to secure precisely the system of preliminary examination which at least in theory exists in France and which is theoretically the sole function of the committee on finance in each of the Chambers. Moreover, the considerations which are involved in the recommendation that several Estimates Committees might well be established are in general the same as those which led the French extra-parliamentary committee of 1913 to propose reinstitution of sub-committees in the Chamber. The Select Committee on National Expenditure of 1918 insists, it is true, that the activities of the Estimates Committees must be confined to such matters as do not raise questions of policy. This restraint is well known to be far from realized in France. At the same time, the extra-parliamentary committee of French financial experts, in recognizing that the finance committee concerns itself unduly with policy and in pointing out the desirability that the situation be remedied, in reality subscribes to the principle on which the Select Committee insists. In England, the possibility that an Estimates Committee might improperly interfere with questions of policy is responsible for the comparatively narrow sphere which has been proposed for the operation of the committee; and a belief that such interference is inevitable, in spite of attempts to limit the action of the committee by formal rules, has been the source of opposition in the House of Commons to establishment of Estimates Committees and to extension of their jurisdiction.⁹² These considerations bear a manifestly close resemblance not only to the usual criticism of French committees on finance but also to the arguments which were advanced in opposition to establishment of a system of grand committees in the French Chambers.

The Select Committee on National Expenditure of 1918 made a further proposal which appears to be of no little interest and importance. The suggestion is advanced that a technical officer of the House of Commons be appointed for the purpose of lending assistance to the proposed Estimates Committees.⁹³ Indeed, experiments with Estimates Committees tend to support the conclusion that lack of effectiveness on the part of these committees is to be attributed to absence of expert assistance and that only with such assistance can any considerable usefulness of such committees be anticipated. In France, no official precisely of the kind suggested is connected with the committee on finance. However, the

⁹² Cf. *ibid.*, p. 28 (Quest. 2).

⁹³ *Ibid.*, pp. 5 (14), 8 (4).

purpose envisaged by the English proposal is in a certain degree served in several ways. The members of the Chambers who possess most technical knowledge of finance generally find their way to committee membership. Experts may be called as witnesses. And the committees have at their disposal certain functionaries belonging to the administrative services of the Chambers and to the services of the Ministry of Finance. Future developments may well include a more highly perfected organization of the committees in this respect. An organization known as the *Redressement Français* has proposed a carefully prepared scheme which would give the committees the opportunity of associating with themselves in a consultative capacity a certain number of experts chosen from a carefully selected list.⁹⁴ Moreover, the committee on the *règlement* in the Chamber proposed in 1932 that a grand committee be authorized to request the Government to designate members of the Council of State, the Court of Cassation, or the National Economic Council for the purpose of sitting with the committee in a consultative capacity during the consideration of a given measure.⁹⁵ If such a proposal should ever be adopted, the committees on finance could be expected to take full advantage of it.

The Select Committee on National Expenditure of 1918 offered another recommendation of the highest interest. The report went so far as to suggest that "it should be established as the practice of Parliament that members should vote freely upon motions for reductions made in pursuance of recommendations of the Estimates Committees and that the carrying of such a motion against the Government of the day should not be taken to imply that it no longer possessed the confidence of the House."⁹⁶ This is clearly to propose the conscious establishment of a far-reaching break in English parliamentary practice. In order for such a proposal to attain to any degree of actual success, tradition would manifestly have to be disregarded in a most unusual fashion and political conceptions would have seriously to be readjusted.⁹⁷ At all events,

⁹⁴ This non-partizan organization was founded at the end of 1925 with Marshal Foch as Honorary President. It is a group of moderates who propose gradual reforms in social, economic, financial, and colonial matters. For the proposal mentioned here, see *Les Cahiers du Redressement français*, No. 25: *La Réforme parlementaire* (Paris, 1927), pp. 82 *et seq.*

⁹⁵ See J. O., 1931, Docs. Ch., S. O., no. 5487 (3 juillet), p. 1188. Cf. also J. O., 1932, Débs. Ch., 25 mars, p. 1704. This was one of a number of proposals being passed at the time by unanimous consent. It was defeated by the objection of a Deputy who declared that it tended "toward a modification of the parliamentary system in France."

⁹⁶ *Ninth Report*, p. 8 (296). Cf. also p. 6 (12).

⁹⁷ In order that such a vote be not regarded as implying lack of confidence in the Government, the Select Committee on National Expenditure recommended that the House of Commons should pass a resolution to the effect that such was the view

the proposal is not one which appears to open up new possibilities for the French parliamentary system. In France, the fact that reductions which are made in the estimates on the recommendation of the finance committees are not usually regarded as questions of confidence in the Government ought scarcely to be interpreted as an indication that a committee on finance is a superior instrument for realizing economies unconnected with policy. Only too often changes proposed by the committee in the estimates inevitably represent disagreements between committee and Government with respect to policy. The Government, it is true, may make any difference a question of confidence; but its failure to do so in respect of many proposed changes manifestly does not mean necessarily that no question of policy is involved. It is usually an indication of the relative weakness of the Government.

A final proposal of the Select Committee of 1918 was that "any statement furnished in connection with a Money Resolution should be referred to one of the Estimates Committees for examination and report, unless the House should dispense with that procedure in any particular case."⁹⁸ The assumption is apparently made that possible evil results of such a practice would be obviated by the fact that "the Estimates Committees will be precluded from dealing with policy." However, the situation assumed bears little real resemblance to conditions which exist in France. No theory is there generally accepted which regards governmental policy as being outside the sphere of the activities of the grand committees. As a consequence, evils undoubtedly exist in practice. The preponderating position of the committee on finance in relation to the other grand committees is enhanced by the provisions of the *règlement*⁹⁹ which require of the committee on finance, in respect of any favorable grand committee report of a measure involving expenditure, a considered opinion on the financial aspects of the proposed measure. The ambitions of special reporters need know little, if any, limit. Moreover, the theory that consideration of the principle of a question belongs to the competent grand committee and decision concerning its budgetary aspects to the committee on finance is sometimes modified in a most important way. Frequently, the financial bearing of a question is inter-

of the House; but the Committee admitted in its Report that such a practice would have to be established "not merely in theory and under the forms of the Constitution, but in fact and in custom." Cf. *ibid.*, p. 6 (17). For subsequent experience with estimates committees, consult *Special Report on Procedure on Public Business* of 1931; Marriott, *The Mechanism of the Modern State* (2 vols., Oxford, 1927), Vol. I, pp. 546-547; Finer, *The Theory and Practice of Modern Government* (2 vols., London, 1932), Vol. II, pp. 836-837.

⁹⁸ *Ninth Report*, p. 8 (2911). Cf. also p. 7 (22).

⁹⁹ Arts. 28, 32, 95.

puted to be its essential principle; and the committee on finance supplants another of the grand committees in respect of the principal preliminary consideration of the question. A highly interesting example is afforded by the question of the resumption by France of official relations with the Vatican.¹⁰⁰ The committee on finance in the Chamber managed to have the matter referred to it. The committee on foreign affairs saw its rôle reduced to that of offering an opinion. The two reporters fell into a disagreement which caused the reporter of the committee on finance to threaten to resign. Even where the principle of a measure beyond question causes it to be referred to another of the grand committees, usually the influence of the committee on finance is strongly felt. Few measures, especially those involving important reforms, can be suggested which do not involve expenditure; and yet the committee on finance is generally assumed to be opposed on principle to increase of expenditure which is not proposed by itself. Therefore, when a reform is being discussed in another grand committee, the members are constantly restricted in their expression of views by the consciousness that no measure involving expenditure has great chance of success unless it is favorably viewed by the committee on finance. The president of the grand committee is usually acquainted with the attitude of the committee on finance; and a statement from him that a proposal under discussion can be expected to meet with little favor from the committee on finance is often sufficient to modify the direction of the discussion in the committee. In this way, a fundamental principle of parliamentary government, instead of being so construed and applied as to give to the legislature ultimate control of the executive, which is responsible for the formulation and direction of broad policy, gives to a small group of private members a position of supremacy over other members.

To draw any final conclusion from a comparison of the French and English systems is perhaps impossible. Close comparison is attended by apparently insuperable difficulty. In the first place, questions of theory and practice appear inevitably to become confused, where the distinction

¹⁰⁰ Cf. Joseph-Barthélemy, *Essai*, p. 323. For an assertion of widespread disapproval of this tendency, see *Le Temps*, 2 février 1930. Cf. also J. O., 1930, Docs. Ch., S. E., no. 3922 (4 novembre), p. 92. For the general question of the relationship of the committee on finance to the other committees, see Joseph-Barthélemy, *op. cit.*, pp. 329 *et seq.* A proposal was made in 1928 that any action on the part of the committee on finance in connection with a matter related to the sphere of another committee should be null unless the committee on finance should call and hear a member designated by the other committee. See J. O., 1928, Docs. Ch., S. O., no. 327 (21 juin), p. 1276.

is lost sight of, or to be too far separated, when their interrelationship is disregarded. If the temptation arises to suggest experiment with the transplanting of a political institution from one country to another, altogether contrary conclusions may naturally flow from theoretical and practical appraisals of the institution. For example, in a case where an institution gives satisfactory results, the argument may be advanced that a sound principle must be involved and that consequently this principle, since it is fundamental, must be applicable in other conditions. On the other hand, from a more practical point of view, the opposite conclusion may appear natural. If the dictum be accepted that the final test of a political institution is whether or not it is workable, common sense suggests making the best of an institution which experience has shown to be at least possible in practice. Practical judgment recommends attempting the improvement of such an existing institution rather than experimentation with something which, whatever its advantages elsewhere, is by no means sure to prove superior to what is already possessed. Again, if the emphasis be slightly shifted, a good case may be made for the view that an institution which gives unsatisfactory results in a certain set of conditions may none the less be based on sound principle and that in other conditions benefit might well be realized from its adoption.

An even greater difficulty lies in the way of close comparison and final conclusion. It is to be found in the dual nature of a budget. Governmental proposals which set out the amount of public funds regarded as necessary for the proper working of the various services and Government recommendations which suggest means for raising such an amount in reality display two aspects. They represent on the one hand a plan of action and an outline of policy. At the same time, they raise detailed and technical questions of finance. When the budget is regarded principally from the political point of view, the system of consideration by committee of the whole house is undoubtedly superior to the system of small committees. In general, little disagreement appears to exist in England with the view that policy should be controlled by the House of Commons as a whole. In this respect, the Committee of Supply seems admirably suited to the purpose. Its meetings offer the principal, though not the only, real opportunity for criticizing the Government; and all of its discussions are devoted to this object. The only opportunity for effective financial control rests with the Treasury, and Parliament thus finds itself confined within a sphere related to only one aspect of the budget. Accordingly, the situation under the British system is for the most part satisfactory from one point of view. Naturally, attention is turned to

the second aspect of the budget, and criticism results. On the other hand, the French committee seems better qualified to exercise an effective control over the financial aspects of the budget. The proposals of the Government are subjected to a most detailed and careful scrutiny. The committee on finance in the Chamber of Deputies devotes several months of continuous study to this purpose. The tendency to stress the financial aspect of the budget appears to explain the practice, which is sometimes observed, of eliminating from the public budget debate general discussion of principle. As early as 1876, when the question of establishing a committee on finance in the Senate was under discussion, a Senator made the very prediction that the committee would be composed of specialists and would not show sufficient regard for the political principles raised by the budget.¹⁰¹ Thus, the pronounced tendency to stress one element of the matter results in France, as in England, in an unsatisfactory situation with respect to the other. In French practice, however, control of Parliament over policy is not, like control of the House of Commons over details of finance, non-existent. The difficulty is rather that control tends to be improperly exercised. A small committee, which is well qualified to exercise financial control, is more doubtfully the proper sort of body to control governmental policy. In actual practice, the French finance committees are recognized so to concern themselves with policy as to encroach not only on the sphere of the Government but also on that of the Chambers themselves. Therefore, the most fundamental reform which is suggested in France proposes that the committee on finance should confine itself strictly to preliminary examination of the financial proposals of the Government.

In the end England and France will without much doubt solve independently the problem of the best system practicable for preliminary study of Government budget proposals. The method will be modification of the existing systems and experiment with institutions and methods which seem in keeping with the political genius of the two nations. England has probably stressed the more important aspect of the budget. The budget is primarily a plan of action and a political program. At the same time, no good reason seems to exist why more attention should not be directed to the financial nature of the budget, provided always the present satisfactory situation with respect to parliamentary control of policy is not thereby compromised. In France, the principal stress appears unfortunately to be placed at the wrong point. As a consequence, real

¹⁰¹ M. Bertauld, J. O., 1876, mai-juin, p. 3940. At the same time, there appears to be little danger that discussion of policy will be neglected either in committee or in the Chamber. Even in connection with discussion of the articles, debate on policy is easily possible.

improvement is more difficult. Hence, if certain students recognize the desirability that the committee on finance confine itself within stricter limits and that the primarily political nature of the budget be fully admitted in France, they not unnaturally indulge in a Gallic shrug and observe that no institution or method of procedure can change human nature. Increased authority for the executive, a narrow sphere of activity for finance committees, and a less oratorical and more pertinent public debate constitute, it may be admitted, a program of reform which is highly formidable. At the same time, human nature and even political customs can be improved; and for French public finance chief hope lies in better habits, increased understanding, and strengthened discipline.

CHAPTER VII

THE GRAND COMMITTEES AND CONTROL OF THE EXECUTIVE

A FINAL great function of parliaments, according to modern theories of the functions of legislatures, is the function of maintaining a general oversight of the executive branch of government. This control of the legislature over the executive grows naturally out of the interrelationship between the several functions of the legislature and out of the nature and source of legislative authority. Since final power rests in some sense in the people, ultimate authority, whatever may be the case in respect of more immediate practical activities, rests in a similar sense in the representatives of the people. In practice, the executive has a part to play in the several activities of the legislature, and the legislature is in greater or lesser degree concerned with the several activities of the executive. Hence, the final authority of the legislature inevitably involves control over the executive. Thus, modern theory and practice agree in allotting to the executive an integral part in the legislative process and in the administration of finance. The same theory and practice, however, regard these two functions as essentially legislative in character. This inevitably means control. In practice, this control exists in sufficient degree for the act of control to be classed as a great legislative function.

Control of the legislature over the executive in reality exists even in governments which are not parliamentary in character. Based though they are on the principle of the separation of powers, which envisages a legislature and an executive independent one of the other, these governments are well recognized to be incapable in practice of avoiding a definite interdependence of legislative and executive. The representatives of the people inevitably acquire a certain control. The degree of control, it is true, differs in considerable measure from that which manifests itself in the parliamentary system of government. The control none the less has a genuine existence.

Legislative control of the executive is of course more commonly and naturally associated with parliamentary government. This means in general, as is well known, that a small group of men who at a given time

direct the executive branch of government must be possessed of the confidence of the legislature and must retire in favor of others when it no longer is able to retain that confidence. Such confidence, of course, implies mutual agreement. In fact, parliamentary government will not work in the absence of such agreement. This is something of what is meant by the dictum sometimes encountered that the ideal of the parliamentary system of government is a nice equilibrium between legislature and executive.¹ Any tendency for this balance to be dislocated marks a tendency towards the falsification of the system. At the same time, a considerable amount of play is possible one way or the other without complete stultification of the parliamentary type of government. This in turn allows no small variation. As a matter of fact, two variants of parliamentary government may appear to differ one from the other in a degree as marked as that in which an example of the parliamentary system may differ from a governmental system based on the principle of the separation of powers.

The classic example of the parliamentary type of government is well known to have been developed in England. Though the not altogether unfounded view is sometimes encountered that in England the position of the private member, owing to the great strength of the Cabinet, is too weak, the English system remains the model of parliamentary government. It has been denominated by a distinguished Alsatian scholar² "the parliamentary régime in its true form." The contrast implied here is with "the parliamentary system in its inauthentic form." Of this variation, France offers the principal example.

The anti-democratic movement, which is well known to be a persistent characteristic of contemporary times, is of course naturally anti-parliamentary in its bias. This is in a peculiar sense true of France, where democracy and the parliamentary system have long been extremely closely associated in the public mind. The result has been a relatively chronic tendency, naturally aggravated in times of especial crisis, for the extreme Right and the extreme Left to subject the parliamentary régime to attack. This attack has served to destroy much of the apathy of those whose support has been responsible for the existence and the maintenance of the parliamentary system in France. The resulting critical advocacy of the régime properly insists that parliamentary government in France is something more than a variant of an English system. It ought to be regarded as something essentially French. In order to be understood, it ought less to be compared and contrasted with English

¹ Cf. Redslob, *Le Régime parlementaire* (Paris, 1924), p. 1.

² *Ibid.*, pp. 1, 156.

parliamentary government, to be judged less by English standards, to be regarded more as a French product."

The French variant of parliamentary government has been said to be imbued with and characterized by what may be called *l'esprit des comités*. "In my opinion," says a distinguished French student of government,⁴ "it is impossible to understand French politics unless account is taken of the character of the *comité*,—a small group of persons who are passionate, active, often doctrinaire, and who are more concerned with governing according to their alleged principles than with accurately representing a majority." This *esprit des comités* manifests itself in various ways. The *comités* to which reference is made are, of course, primarily phenomena of practical politics in the country at large. At the same time, the definition of them is not an inaccurate definition of the grand committees in the Chambers. As a consequence, perhaps no great violence is done to the facts by the suggestion that the establishment and maintenance of the system of grand standing committees in the Senate and the Chamber of Deputies are a manifestation of *l'esprit des comités*.

Whereas, in the critical advocacy of the French parliamentary system, advocacy involves judgment of the régime according to French standards, criticism not unnaturally involves the tendency to employ an ideal standard. In this way, defects of the system are recognized to exist and remedies for them are proposed. The principal defect of French parliamentary government, if indeed it does not include all the shortcomings, is considered to be the preponderating position of the Legislature. Parliament is frequently referred to as being omnipotent. This reference is, of course, not to theory but to practice.⁵ The grand committees, practical instruments of Parliament, are again in this respect involved.

The Grand Committees and the Executive

The legislative control over the executive which is characteristic of parliamentary government does not necessarily require logically that legislative committees shall exercise any large part of this control. On the contrary, English theory goes so far as to assert that committees of the French type should not concern themselves with control. "There must be no committee," asserts a typical statement in the matter, "which is to

⁴ Reference may be made in these respects to two articles of the writer: "The Antiparliamentary Movement in France," *American Political Science Review*, Vol. XXI, No. 3, August, 1927, pp. 552 *et seq.*; "The French Parliamentary Committee System," *Economica*, No. 23, June, 1928, pp. 147 *et seq.*

⁵ M. André Siegfried. Cf. the writer's "Antiparliamentary Movement in France," p. 559.

⁶ Cf. *ibid.*, p. 563.

be a substitute for House of Commons responsibility. . . ."⁶ On the other hand, most French opinion would scarcely hold that the powerful grand committees should exercise no control whatever over the Ministers. As the working organs of Chambers which themselves push control even beyond its proper boundaries, the grand committees, it is widely believed, ought to have their part in working parliamentary control. At all events, whatever may be the theory, the committees are recognized to be in the practice of the present day effective instruments of control over the executive.⁷ In this respect, a somewhat curious view has been expressed at times not only by foreign students of French government but by French students and politicians as well. It is the view that the grand committees were established purely as an institution for the amelioration of legislative procedure and turned out unexpectedly to be a valuable means for controlling and even dominating the executive.⁸ A study of reports and debates concerned in the matter demonstrates that this view is wholly unhistorical.⁹ In fact, such study bears out an exactly opposite conclusion. Opponents of the establishment of a system of grand committees in the Chamber of Deputies were never in any doubt in the matter, and they vigorously endeavored to remove all doubt from the minds of the advocates of the system. Such advocates as were imbued with *l'esprit des comités* not only were ready to believe that the grand committees would be instruments of control; they devoutly hoped so. "I do not understand what we are doing," said a Deputy at the time of the establishment in 1902 of the system of grand committees in the Chamber, "if the committees which we are setting up are not committees of control."¹⁰ Other advocates, it is true, insisted, no doubt sincerely, that the committees would serve merely as an instrumentality in a better legislative working method; and they consistently refused to heed any warning. "It does not appear unreasonable to think," wrote a distinguished scholar soon after the establishment of the system of grand committees in the Chamber, "that certain advocates of the new organization were perhaps slightly the dupes of appearances and were outside the constitutional reality."¹¹

Though the prophecies of the opponents of a system of grand com-

⁶ Mr. Lloyd George, at the time Chancellor of the Exchequer. V. Parl. Debs., H. of C., April 17, 1912, Vol. 37, No. 42, 362-363.

⁷ Cf., e. g., Hauriou, *Précis de droit constitutionnel* (2^e éd., Paris, 1929), p. 527; and Joseph-Barthélemy et Paul Duez, *Traité de droit constitutionnel* (2^e éd., Paris, 1933), p. 713.

⁸ Cf., e. g., Fournol, "The System of Parliamentary Commissions in France," *The New Europe*, Vol. VIII, No. 94, August 1, 1918, p. 57.

⁹ See Ch. III, *supra*.

¹⁰ M. Lucien Milleroye, J. O., 1902, Débats Ch., 18 novembre, p. 2627.

¹¹ M. Joseph Delpech, *Revue du droit public*, 1904, t. 23, p. 347 n.

mittees have in large measure been borne out by facts, the matter should not be envisaged as one of simple cause and effect. The grand committees cannot properly be regarded wholly as cause in the subordination of the Cabinet to Parliament in France. They are also in large part the effect of that subordination. This, in fact, appeared to the proposers in 1889 of a resolution providing for a system of grand committees a sufficient answer to the argument that the committees would exercise excessive control over the Ministers. "There is indeed," they said, "occasion to remark that by anticipation the same reproach is directed at the permanent committees as is directed at the whole Chamber."¹² What they appear not to have apprehended was the reciprocal relationship involved. The growing sentiment in favor of an all-powerful legislature was in the end largely instrumental in bringing the system of grand committees into existence. Therefore, the committees are in part cause and in part effect of the admittedly inferior position of the French executive in normal circumstances.

Perhaps the simplest manifestation of the fact that the grand committees, though in theory essentially legislative, are closely related to the executive branch of government is to be found in a pronounced tendency in the direction of parallelism of organization.¹³ Such changes in number and nomenclature as have occurred since the establishment of the system of grand committees have for the most part served to render closer this parallelism between the committees and the organization of the executive departments. The tendency, of course, has been greater in the Chamber of Deputies than in the Senate; but about this there is nothing strange. Whatever the intention of the Constitution, the control of the Chamber over the Cabinet in practice is well known to be more far-reaching than that of the Senate. However, an experienced Deputy has proposed that the list of committees in the Senate should be identical with that in the Chamber and that both should exactly reproduce executive organization.¹⁴ Moreover, this proposal did not emanate from a section of the Chamber which is normally regarded as being imbued with *l'esprit des comités*. During the debates at the end of the nineteenth century on the establishment of grand committees, the division of opinion in respect of parallelism was in general the same as that concerning the grand committees themselves.¹⁵ Advocates who approved committees as

¹² J. O., 1889, Docs. Ch., S. E., no. 7 (16 novembre), p. 4.

¹³ Cf. Ch. IV, *supra*.

¹⁴ M. Louis Marin.

¹⁵ See Ch. III, *supra*.

instruments of control over the executive frankly favored parallelism. Advocates of committees as a means of improving legislative procedure included provisions in their proposals and promises in their arguments that parallelism should be carefully avoided. Opponents predicted that parallelism could be avoided as an inevitable consequence only by refusal to establish a system of grand standing committees. More than passing interest, therefore, attaches to vigorous present-day advocacy of parallelism from a quarter possessed of the same general tradition as that of the historical opponents of grand committees. The cause of the apparent anomaly is probably to be found in the influence of the World War and of experience at that time with problems of control. At all events, this would appear to explain the situation. In the legislature immediately following the War, the majority of a Chamber characterized by a conservatism natural in post-war conditions was on principle opposed to parallelism. Advocacy of it from a more moderate member of the majority clearly involved conviction in the matter based on the primacy of practical experience over abstract principle. However, the presence of a large number of new members assured the triumph of principle. Exact parallelism was rejected. "The motives which caused the system of parallelism to be rejected," wrote the reporter of the committee on the règlement in 1920, himself a new-comer in the Chamber,¹⁶ "touch upon the most serious principles of our political organization. They are at the very foundation of the parliamentary system. We feared that through an aggravation of direct encroachment by Parliament on the Government the necessary equilibrium of the powers and the constitutional rule of collaboration of separated powers might be compromised. . . ." Expression of the practical point of view was pitched in a decidedly lower key. "We have not in our hands with the present committees," said in debate the proposer of parallelism,¹⁷ "true instruments of control; and our new colleagues will perceive this quite quickly when they desire to exercise effective control." He argued that "there is only one system—and you will be aware of this truth from the first days the committees work—the parallelism of the committees and the ministerial departments as well in their number as in their spheres of activities." His concluding assertion in the matter was that "the best experience with committee work shows that it is the only way of arriving at a good legislative production and, still more, at a serious control."

¹⁶ M. Joseph-Barthélemy, J. O., 1920, Débs. Ch., 24 janvier, p. 52.

¹⁷ M. Louis Marin, *ibid.*, 28 janvier, p. 63.

The Grand Committees and Policy-Forming

The relationship of legislature to executive in the parliamentary system and more especially control of the legislature over the executive involve in principle primarily or, in other words, directly only a numerically small part of the executive branch of government. The head of the state is not directly involved. The civil servants likewise are, at least in theory, only indirectly involved. Those directly involved are a small group of *political* executive agents. They are to be distinguished from the head of the state, that is, the *formal* executive, and from the civil service, that is, the *routine* executive, by the fact that they are the *policy-forming* executive.

The function of the policy-forming executive, that is to say, of what is in countries with the parliamentary system often called the Government, is to "drive a stream of tendency through affairs."¹⁸ This means the exercising of an ultimately acceptable direction in legislation and finance, which are the immediate concern of the legislature, as well as in the manifold activities which are involved in carrying out the law. Hence, the theory of parliamentary government involves the related phenomena of *leadership* on the part of the executive and *control of policy* on the part of the legislature.

The exact nature of real leadership, involving a reciprocal relationship between leader and those led, is perhaps impossible of determination. The extremes in the matter are clear enough. A person is not a leader who, with no regard for anything but his own will, imposes that will on others in such a way that they can at best be said to acquiesce but in no real sense to consent. A person is likewise not a leader who conceives that the sole purpose of his position is to interpret and to reflect the thoughts and desires of others and who maintains his position precisely in this way. Real leadership must involve a mean somewhere between the extremes. However that may be, the classical theory of leadership in the parliamentary system of government may without great difficulty be stated. The policy-forming executive consists of men who are by definition natural leaders of a large, well-organized political party. Members of the party form a relatively homogeneous majority of the more powerful of the houses of the legislature. The leaders play "a primordial rôle, the direction of the whole."¹⁹ They are thus in no wise subservient to the

¹⁸ Laski, *Grammar of Politics* (London, 1925), p. 299.

¹⁹ Berthélemy, *Traité élémentaire de droit administratif* (12^e éd., Paris, 1930), p. 19 n.

majority but merely in the last analysis responsible to it for the general character of their direction.

In France, in normal conditions, the leadership of the Government is weak for many related reasons. Of these, at least two persistently suggest themselves. In the first place, the support of any Cabinet is usually precarious. This in turn is the result of several causes. The most immediate, which itself requires explanation, is the well-known fact of the existence in France of a multiple party system. As a consequence, the Government rests for support on the coalition of several political groups held temporarily together by transactional arrangements. In this position, the Government has not the power really to govern. It can remain in office only with great difficulty. "The first preoccupation of the Cabinet is not the realization of a program but the conservation of portfolios." ²⁰ The Ministry naturally tends to await the lead of Parliament. It thus tends to assume a lower and lower position before the Chambers. "The ministers are placed so high only the better to obey. Authority begins from the bottom. The Government does not govern, it executes." ²¹ Hence, a second reason for weak leadership is lack of unity. Not only are the support of the Government and therefore the Government itself heterogeneous; its leadership is shared with Parliament. In both these respects, the relationship between the Government and Parliament involves an analogous relationship between the Government and the grand standing committees.

French Ministries are, to say the least, usually no stronger leaders of the committees than of the Chambers. Their dependence on the committees is manifested in a particularly striking way on occasions, which are not unknown, when they openly consult one or more committees before formulating their proposals on some matter difficult enough to require firmer leadership than usual.²² The support of the Government in the grand committees, where in practice their need for support is great, is in theory identical with that in the Chambers. In practice, the situation is not altogether the same. When the principle of proportional representation is falsified in an important committee, theoretical support of the Cabinet may become actual opposition.²³ Even before committees which reflect accurately the composition of the Chambers, the position of the

²⁰ Joseph-Barthélemy, *Le Rôle du pouvoir exécutif dans les républiques modernes* (Paris, 1906), p. 682.

²¹ *Ibid.*

²² Cf. Joseph-Barthélemy, *Essai sur le travail parlementaire et le système des commissions* (Paris, 1934), p. 203.

²³ Cf. Chs. IV and VI, *supra*.

Government is not in reality so strong as in Parliament. A committee room, it is true, is reputed to offer and no doubt in practice does sometimes offer opportunity for closer contact and greater mutual understanding and respect than public sittings. At the same time, appearances may easily be deceptive. French politeness is proverbial and apparently boundless. Thus, parliamentary courtesy demands that the Government shall periodically extend its thanks to the committee on finance, though this sometimes means in practice that a Government expresses appreciation to a committee with which its relations have been highly strained.²⁴ On the other hand, committee rooms are likewise natural "hot beds of intrigue" and "antechambers of coveted ministries."²⁵ The committees tend to make matters of all sorts, regardless of their real nature, into political questions. They overlook few opportunities to discredit the Government. "Too often in the past," says a world-famous moderate journal, "the committees have considered the problems submitted to their examination less as a proper opportunity for action than as an indirect opportunity for opposition. A question has been taken over not in order to solve it for the benefit of France but in order to confuse it to the prejudice of the Ministry."²⁶ This judgment furnishes an explanation of and evidence for the suggestion which has been made that hostility to the system of grand committees emanates primarily from former Ministers and moderate newspapers.²⁷

The same forces which cause the Government in France to share its leadership with Parliament lie behind the fact that the grand committees in large measure acquire the share which Parliament assumes. This fact of course for the most part grows out of the rivalry which exists between the members of the committees, especially the presidents and reporters, and the Ministers. In fact, the presidents and the reporters of the grand committees, in sharing leadership with the Government, become in a definite though unofficial sense Ministers. A simple manifestation of this situation may be seen in the appearance of special budget reporters before the other committees in a manner strikingly suggestive of the appearance of a Minister before these committees.²⁸ According to an axiomatic principle, leadership in being shared is largely destroyed, or at least greatly weakened. "To trace a program of legislation," writes a distinguished scholar, whose words are authoritative in the best sense of

²⁴ Cf. Joseph-Barthélemy, "Le Procès de la commission des finances," *Mélanges R. Carré de Malberg* (Paris, 1933), p. 244; also *Essai*, p. 279.

²⁵ *Le Temps*, 5 février 1920.

²⁶ *Ibid.*

²⁷ Cf. Joseph-Barthélemy, *Essai*, p. 7.

²⁸ Cf. *Bulletin des commissions, passim*, e. g., no. 6, 27 novembre 1928, p. 135.

the expression, "and to oversee its execution, to direct as a consequence the labors of the Chamber and to determine the orientation of national policy is properly speaking to govern. If a committee of the Chamber, whatever name it may take, charges itself with this, what remains for the Cabinet?"²⁹

A simple manifestation of the tendency for the position of the grand committees to be assimilated to that of the Government appears in the tendency for attributes that are properly to be thought of in connection with the executive to be associated with the committees. Thus, according to the classic theory of parliamentary government, technical assistance in preparing and drafting prospective legislative measures belongs naturally to the Ministry, from which initiative in all important legislation should emanate. The same is in general true of advisory committees. Still another interesting example is furnished by the frequent practice on the part of the grand committees of receiving delegations representing interests of various kinds. In France, there is of course no lack of advisory committees. However, the significant fact is that proposals are made and a tendency seems to exist to associate these advisory committees, whose functions directly concern policy-forming, not with the executive but with the grand committees. This is true of a proposal like that of the *Redressement Français* and of similar proposals made from time to time in Parliament.³⁰ In the specific case of bill-drafting, the importance of improved technical facilities in the matter is well recognized in France. However, in this case, as well as in that of advisory committees, proposals generally manifest a striking point of view. The assumption is apparently made that a share by the committees in policy-forming may as well be accepted as an accomplished fact. The natural conclusion is that aids to policy-forming which have proved their worth can with advantage be allotted to the committees.

The control of the formulation of policy, which in the theory of parliamentary government is a control belonging to the legislature, is in practice exercised in various ways. In general, activities which are involved in control may be grouped under two headings. They involve either efforts to secure *information* or opportunities to engage in *criticism*. In French theory and practice, the committees as working organs of Parliament engage in both these kinds of activities, which in all theory are recognized to be proper undertakings for Parliament. The question, then, arises as to why adverse criticism is encountered in this respect. The simple fact is that criticism grows not out of the exercise of control

²⁹ Joseph-Barthélemy, *Le Rôle du pouvoir exécutif*, p. 687.

³⁰ See Ch. VI, *supra*. Cf. also *Le Temps*, 30 janvier 1930.

as such but out of the measure and manner in which control is exercised. If this is the case with respect to Parliament itself, it is still more the case with respect to the committees. "To speak truly," said a scholar of distinction soon after the establishment of the system of grand committees in the Chamber of Deputies, "this faculty, envisaged in itself, has never given any difficulty, only the conditions of its exercise have given rise to incidents."⁸¹

In any country, legislatures employ several methods for obtaining information. Of these, the use of commissions and committees is one of the most common. The French grand committees are no exception to the rule. However, here again, the question is one of degree; and abuse is notorious. This is especially true when the committees, in the exercise of control, seek information directly from the Ministers. Abuse arises particularly out of the excessive demands made on the time of the Ministers. "I do not believe," said one of the most noted of modern French Prime Ministers,⁸² "that there is another country in the world where the system imposes such an amount of work upon those who are in charge of the Government." The trouble is aggravated, he finds, by the necessity for the Government to appear four times: once each before the Senate and Chamber, and once each before the competent committee of the Chamber and that of the Senate. The Committees he denominates "parasitical organisms" and "parliaments within Parliament."⁸³ In England, according to a former veteran of the House of Commons, the excessive demands by the French committees on the time of the Ministers was responsible for opposition in 1917 on the part of Mr. Bonar Law and Mr. Lloyd George to the French system. "What happened was this, as I have heard," he said. ". . . There was an appointment between M. Briand and the right honourable Gentlemen, and I think the present Prime Minister, at four or half past four one afternoon. Four came and no M. Briand. Half past four came and no M. Briand. Five came and no M. Briand, and at last a pale and rather draggled figure turned up—I believe about six o'clock—and he said, of course with tears in his voice, that he had been at the Commission all day, and ever since that the right honourable Gentlemen, the Leader of the House and the Prime Minister, are dead against Commissions."⁸⁴ On the other side of this question, however, a distinguished scholar suggests that statistics would tend to

⁸¹ M. Joseph Delpech, *loc. cit.*

⁸² M. Poincaré. See *London Times*, November 16, 1929. Cf. also *Le Temps*, 17 avril 1924.

⁸³ Cf. Joseph-Barthélemy et Paul Duez, *op. cit.*, p. 552.

⁸⁴ Mr. T. P. O'Connor, *Parl. Debs.*, H. of C., April 4, 1917, Vol. 92, No. 37, 1377.

show that generalization concerning the appearance of Ministers before the committees may easily lead to exaggeration.⁸⁵

In the operation of the parliamentary system, several kinds of opportunity are presented for the legislature to engage in criticism of the executive. Neither the theory nor the practice of parliamentary government involves frequent use of formal resolutions of lack of confidence. However, an indication of the fact that in France the Chamber shares with its committees control over the executive may be seen in the practice on the part of the committees of employing at times resolutions hostile to the executive.⁸⁶ Much the most important occasion for criticism, of course, is that afforded by the consideration of the estimates of expenditure. In France, the formidable part played in this consideration by the committee on finance is a simple explanation of the fact that it assumes the foremost position as a critic of the Government. As a question of degree, the extreme point to which it presumes to carry its criticism and the abuse of power of which it is guilty are notorious. When due allowance has been made for partizan overstatement and for the diction of enthusiasm, adverse judgment of the committee on finance still appears almost universal. Even those who advocate the omnipotence of Parliament and who approve efforts on the part of the finance committee to assist in maintaining the Government in a position of subjection recognize frankly that in fact the committee is not backward in making these efforts. Students who approve the system of grand committees readily join in decrying the habits of the committee on finance. "One grand committee," writes with somewhat surprising logic a contemporary advocate of the grand committees, "seems to justify in a measure the fear of those who believed new machines of war were being created against the Government. But this committee on finance or committee on the budget, with a general sphere of activity involving a political attitude which at times is turbulent, has always existed."⁸⁷ In reality, the committee on finance, both in considering the annual estimates and in offering its opinion on measures handled by other committees, enters freely into matters of policy. It in this way usurps the initiative of the Government and the control of the Chamber. Thus, its action has been called "tentacle-like and encroaching." The committee has been called a "counter-government," an "occult ministry," a "ministry of small scale but large pretensions," and the "great rival of the Government."

⁸⁵ Joseph-Barthélemy, *Essai*, pp. 218-219.

⁸⁶ Cf. *ibid.*, p. 214.

⁸⁷ André J.-L. Breton, *Les Commissions et la réforme de la procédure parlementaire* (Paris, 1922), p. 57.

Likewise, in relation to the Government, the committee has been referred to as an "ambush in which all Governments are threatened."³⁸ Finally, perhaps the most extreme terminology which has been employed with respect to the power so often abused by the committee on finance was used by the Government itself in an official communiqué. It spoke in 1933 of this power of the committee as its "constitutional right."³⁹

Closely related with financial control, of course, and in the parliamentary system based directly on possession of the purse strings by Parliament, is the question of the responsibility of the executive. Responsibility as a concept does not lend itself easily to exact definition. In general, it appears to be either potential and moral or politically organized and actual. In the first case, though answer in a given instance is not literally required, conditions are such that in the result the connection may be clearly understood and established between an act or condition and the person or persons who caused it. In the second case, persons are answerable in the sense that when they are regarded as being the cause of an act or condition, they must pay a penalty. The most typical political sanction in this connection is, of course, loss of position. In the parliamentary system, this means *resignation*. When the Government resigns, it is not unnaturally said to fall. In France, these falls are well known to be very frequent. Ministerial instability is notorious. Numerous reasons for this unsatisfactory operation of ministerial responsibility have been suggested in various times and places. Whatever the answer, simple or complex, may be, it could not well fail to include among the causes involved the grand committees and, more especially, the committee on finance.

Supporters of and apologists for the grand committees have argued that ministerial instability has not been aggravated since the establishment of the grand committees. "The experience is there," runs the contention. "The permanent grand committees, of which several already existed, were definitely instituted in 1902. Since that time, it does not appear that ministerial instability is more pronounced than formerly."⁴⁰ Several answers to this reasoning are doubtless possible. The first would be to take exception to the alleged fact. That ministerial stability is at present as strong as ever is at best very doubtful. Statistics are so uncertain as to be almost without value, though considerable difficulty would probably attend the effort to show by figures that instability has not increased during recent years. Moreover, momentary stability, in the sense of

³⁸ Cf. Joseph-Barthélemy et Paul Duez, *op. cit.*, pp. 551-552; Joseph-Barthélemy, *op. cit.*, pp. 333 *et seq.*

³⁹ January 20, 1933. Cf. *L'Information*, 31 janvier 1933.

⁴⁰ Breton, *op. cit.*, p. 55.

failure of the Government to resign, is not necessarily a sign of strength; for, purely as a consideration of formal logic, Parliament might in a given case reduce a Government to such a position of subjection that from the point of view of Parliament no reason for its overthrow need exist. In this way, the position of the Government might very possibly be definitely worse on account of the activities of grand committees than if no such committees existed; and yet ministerial crises would not necessarily occur with great frequency.⁴¹ The real point is that Cabinets maintain themselves in the face of ever increasing difficulties; and the part played by the grand committees and more especially by the committee on finance, though the question continues as always to be one of reciprocal cause and effect, grows greater. A scholar who is perhaps the keenest student of the matter asserts simply of the encroachments of the committee on finance: "The evil is old, but it goes on ceaselessly increasing."⁴²

The committee on finance has not acquired its reputation for nothing. It is variously denominated "wrecker of ministries," "committee of successors," and "committee of heirs apparent."⁴³ The president of the committee is almost certain to have been or subsequently to become a Minister. Hence, when the proposals of the Government are before the committee, the proceedings of the committee will scarcely be directed in a manner favorable to the Government. Many other members, especially the reporters, have the same attitude and ambitions. Even the exceptions prove the rule. Sometimes members prefer to remain in the committee; for its stability is greater than that of the Government.⁴⁴ In general, however, experience shows that a new Ministry is altogether likely to include members serving at the time on the committee on finance. The same thing is in a lesser degree true of the other grand committees. Their presidents especially are logical and likely members of a new Government. Usually, though by no means always, the president or other committee member who rises to a ministerial position enters a Ministry corresponding to the grand committee involved.⁴⁵ Moreover, former Ministers not unnaturally succeed to positions as presidents of committees; so that a kind of alternation tends to become established.⁴⁶ This

⁴¹ Cf. Joseph-Barthélemy, *Le Rôle du pouvoir exécutif*, p. 684.

⁴² M. Joseph-Barthélemy, "Ils n'en ont pas en Angleterre," *L'Information*, 31 janvier 1933.

⁴³ Jèze, *Cours de science des finances et de législation financière française: Théorie générale du budget* (6^e éd., Paris, 1922), pp. iv, 263. Cf. Joseph-Barthélemy, *Le Gouvernement de la France* (2^e éd., Paris, 1925), p. 50.

⁴⁴ The example of M. Malvy will immediately come to mind. Cf. Joseph-Barthélemy, *Essai*, pp. 127, 288.

⁴⁵ Cf., e. g., *Bulletin des commissions*, no. 6, 27 novembre 1928, pp. 129, 134; *ibid.*, no. 13, 24 janvier 1933, p. 381.

⁴⁶ Cf. Joseph-Barthélemy, *op. cit.*, p. 128.

arrangement may be argued to possess some virtue; but the result can scarcely be regarded as salutary for true ministerial responsibility. In the circumstances, there is no wonder that a premium is felt to be placed on bringing down a Government and that more than one Cabinet has come to grief in its relations with the committee on finance and the other grand committees.

Direct action on the part of the committee on finance manifested itself in a particularly striking way in 1925.⁴⁷ Though there is some room for different interpretations of the events involved, the committee is generally regarded as having directly caused the resignation of the Minister of Finance.⁴⁸ The case not unnaturally aroused more than ordinary interest. The Minister involved was M. Loucheur, Minister of Finance in the Briand Cabinet. The most important of the problems of the Government was the financial situation, the seriousness of which developed so rapidly as to lead to the notorious events of the summer of 1926. Meanwhile, the Briand Cabinet appeared before Parliament at the beginning of December, 1925. It received by a narrow margin a vote of confidence. Within the following week, M. Loucheur secured the approval of the Ministers for his program and submitted his proposals to the committee on finance. Two or three days later, the committee on finance, having meantime heard the Minister, devoted a four-hour session to the situation. In the end, by a vote of 15 to 6, the committee adopted a formal resolution which stated its conviction that the Loucheur proposals were unsatisfactory. The resolution furthermore stated as the decision of the committee that it was returning to the Minister all of his proposals except two. The Minister was naturally perturbed. He suggested another hearing before the committee. M. Loucheur cannot have displayed a great deal of independence; for, in the polite terminology of the official committee communiqué, "the Minister ended by saying that he was at the disposition of the committee with a view to bringing himself into agreement with it." M. Loucheur's departure was evidently followed by the development of pronounced hostility in the committee. In a tersely worded resolution, the committee referred to the second hearing of the Minister, confirmed its former resolution, and stated as its decision that it would confine itself to a discussion of the two proposals which it had retained. M. Loucheur resigned. He placed the responsibility squarely upon the committee. "The two motions voted by the committee on finance in the

⁴⁷ See *Le Temps*, 16, 17 décembre 1925. Cf. also *Revue politique et parlementaire*, 1926, t. CXXVI, no. 374, p. 123; *Revue du droit public*, 1926, t. XLIII, pp. 451 et seq.

⁴⁸ Cf. Joseph-Barthélemy, *op. cit.*, p. 333.

Chamber," he stated in a letter to the Prime Minister, "in reality refused the Government a collaboration which the Government offered with a view to reaching an agreement on the financial proposals decided upon by the Cabinet."

The several elements of this event were not completely novel to students. The case was merely particularly striking. In the words of a thoughtful scholar, who did not hesitate to affirm that several aspects of this encroachment by the committee on the spheres both of the Government and of Parliament were unconstitutional, the event was "a consequence of the institution of the permanent committees suddenly rendered manifest."⁴⁹

In a disagreement between the Cabinet or one of its Ministers and a grand committee like the committee on finance, the Government may of course appeal to the Chamber; and if it is serious in its conviction of the superiority of its view to that of the committee, it will make the matter a question of confidence. More than probably, the Chamber will support the Government. At the same time, a particularly suggestive commentary on the situation is the fact that sometimes a president or reporter threatens to resign and sometimes one does resign as a protest against what is interpreted as lack of confidence.⁵⁰ However, the important point is that the grand committees, in assuming a share of leadership and of control and in causing responsibility to be divided, are not in any genuine sense responsible. Generally, presidents of committees are irresponsible and irremovable. They resign only rarely; and they scarcely if ever arouse the displeasure of their political group or of the committee itself to the point of being removed. Their electors are more likely to be impressed with the fact that their representative has become a "Monsieur le Président" than to possess knowledge of or to display interest in his intrigues against the Government. The committees themselves cannot be held responsible. They meet in secret and keep only sketchy and in large measure unpublished minutes, from which a member may easily by request prevent an act or word of his from appearing. In these conditions, a good reason is apparent for the fact that the grand committees are only relatively rarely set up by the Chambers as committees of investigation clothed with judicial powers. The increased power which results from ability to require the presence of witnesses and to hear them under oath is more than offset by the certainty that a formal investigation, which is reported at some length in the press, offers more opportunity for placing

⁴⁹ M. Robert Mathes, *Revue du droit public*, loc. cit.

⁵⁰ Cf., e. g., *Bulletin des commissions*, no. 18, 26 février 1929, p. 384.

responsibility and for observing the encroaching tendency and political bias of the committee than if the committee should proceed in its normal manner.⁵¹

Assertions of independence on the part of the Government have been flashes of the moment. Improvement may seem to have been realized during the period in which Parliament is suffering from the shock; but the improvement is more apparent than real. In the end, until fundamental change takes place, Parliament will in the French system reduce the Government to its normal position of subordination; and the grand committees will maintain their position. In 1906, M. Clemenceau with a degree of seeming success made the effort to strengthen the position of the Government. "The Deputies," runs a contemporary account of the matter, "had had to do with Prime Ministers who had made a point of restraining governmental prerogatives to the profit of Parliament, of following the majority and not guiding it, and of causing the fact to be forgotten that they held a post which was the object of so much covetousness, by making themselves the humble and obedient servitors of all those who might have the thought of disputing their power. . . . M. Clemenceau had wished to break with this shameful and demoralizing tradition."⁵² Several elements in the Chamber were unable to forgive this display of independence. Agitations in the country and in political circles filled the relatively long lease on power of the Clemenceau Cabinet. Finally, the Prime Minister resigned, interestingly enough, as the result of a conflict with a president of a grand committee who had announced his intention of overthrowing the Government.⁵³ Another example in France of firmness on the part of the Government was that of M. Briand during the World War. At a time when the Chamber had decided to assume a direction of affairs which would have resulted in complete subjection of the Government, M. Briand took a stand so firm that the Chamber quickly reversed its decision.⁵⁴ This show of strength and its temporary success caused a thoughtful student of the French parliamentary system enthusiastically to write that a renaissance of parliamentary government had taken place in France.⁵⁵ About ten years later, the same Prime Minister, at the time of the Loucheur affair, caused

⁵¹ Cf. Arnitz, *Les Enquêtes parlementaires d'ordre politique* (Paris, 1917), pp. 5, 243.

⁵² Wallier, *Le 20^e siècle politique*, Année 1906 (Paris, 1907), p. 82.

⁵³ For the Clemenceau-Delcassé affair, see *Le Temps*, 22 juillet 1909. Cf. also Esmein et Nèzard, *Éléments de droit constitutionnel* (2 vol., 8^e éd., Paris, 1928), t. II, p. 505; Lavis, *Histoire de France contemporaine: Tome Huitième: L'Évolution de la 3^e République* (Ch. Seignobos) (Paris, 1921), pp. 260 et seq., 267.

⁵⁴ See this chapter, *infra*.

⁵⁵ Joseph-Barthélemy, *Démocratie et politique étrangère* (Paris, 1917), p. 330.

the committee on finance greatly to recede from its pretentious position when he insisted that he was responsible to the Chamber and not to "un comité réduit."⁵⁶ And yet at the beginning of 1922, this same Prime Minister, whose independence during the War was said to be responsible for a rebirth of true parliamentary government, fell from power largely through the intrigues of several of the grand committees.⁵⁷ The intrigue was carried on in the absence of the Prime Minister, who was in attendance at an international conference. The principal committees involved were the committees on finance and on foreign affairs in the Chamber and the committee on foreign affairs in the Senate. The Senate committee played a peculiarly important part in the whole affair. Its president was M. Poincaré, who in 1912 as Prime Minister and Minister of Foreign Affairs secured the defeat of a proposal for a more effective committee on foreign affairs.⁵⁸ In 1922 he became Prime Minister in succession to M. Briand. And finally, significantly in the vagaries of French politics, M. Poincaré, second to no statesman of the Third Republic in reputation for achievement and distinction, has been in recent years a bitter critic of the grand committees.⁵⁹ France, he feels, can and must remedy the situation. "She will ask of her Governments," he says, "that they themselves govern, and of her Senators and Deputies that they control and legislate without imagining themselves to be Ministers or Under-Secretaries of State."⁶⁰

Adverse criticism of the grand committees—of their encroachment on the Government and on Parliament, with serious consequences for leadership, responsibility, and stability—assumes, of course, as a standard of judgment what may be called the classic or English concept of the parliamentary system. On the other hand, the very existence of the situation criticized indicates that another standard and another concept not only are possible but actually prevail. The grand committees and the condition of which they are in part the cause and in part the effect are defended, explained, and justified. This is done in terms of ideas and conditions which are peculiarly French.

Democracy, the parliamentary régime, and republicanism are well known to be inextricably interconnected in French ideology. Associations with which the republican tradition is overlaid influence inevitably atti-

⁵⁶ *Revue du droit public*, loc. cit., p. 465.

⁵⁷ For this episode, which came to be known as the "Cannes affair," see *Le Temps*, 12, 13, 14, 15 janvier 1922. Cf. Jèze, *op. cit.*, p. 263; Joseph-Barthélemy et Paul Ducz, *op. cit.*, p. 832; Joseph-Barthélemy, *Essai*, pp. 233-234.

⁵⁸ See this chapter, *infra*.

⁵⁹ Cf., e. g., *Le Temps*, 17 avril 1924; *La Nación* (Buenos Aires), 22 de octubre de 1929.

⁶⁰ *London Times*, November 16, 1929.

tudes toward parliamentary government. Thus, according to the tradition of republicanism, the executive is to be distrusted by the Legislature, which, in order to serve the interest of the existing régime, must maintain a careful watch over those who otherwise could wish nothing better than to be left free to attempt a *coup d'état*. As a result, the psychological tendency appears to exist in French Chambers for strong leadership on the part of the Government to be identified with executive imposition on Parliament of a will other than that of Parliament. A Government of real strength tends to be regarded as something apart from Parliament. The executive under a monarchy and a formally identical executive under a republic are felt to involve a distinction in spirit which, however subtle, is none the less real. "A strong Government for us Republicans," said in 1890 in the Chamber of Deputies a distinguished statesman of the democratic republican tradition, "must be a Government strong with and by the Chamber. (Hear, hear!) . . . However, it cannot be so without having at each instant the real confidence of this Chamber; and in order to have this confidence, in order to find and to keep a solid and durable majority, it has not to look for means of imposing on the Chamber a will which may not be its own. It ought to have with the Chamber only one and the same will, which it should endeavor to render conformable with what it itself sincerely believes to be the will of the country."⁶¹ In essence, this view accepts a preponderating position for the Legislature. In this view, a system of grand committees may be defended through a distinction between parliamentary monarchy and parliamentary republicanism. "In a democratic republic," runs one statement of the argument, "where fear of the Assemblies is less keen, it seems that the institution of permanent and competent organisms with general jurisdiction ought much more easily to be admitted."⁶²

A further consideration in respect of the relationship between executive and Legislature in France is of a peculiarly French character. It involves the extreme centralization of administrative machinery. In a country where the national capital is the source of much action which in other countries would be performed by local authorities and where the executive is conceived to possess many powers which are elsewhere considered to belong to the judicial and legislative branches of government, the theoretical power of the executive is enormous. This is in France thought to be a good reason why Parliament should not be content merely to exercise a control over the general policy of the Government of the day.

⁶¹ M. Léon Bourgeois, J. O., 1890, Débs. Ch., 4 février, p. 173.

⁶² Breton, *op. cit.*, p. 59.

The Grand Committees and Administration

The distinction which is conventionally attempted between the *executive strictly speaking* and the *administration strictly speaking*, though it cannot be made with absolute exactness, may be regarded as sufficiently definite to serve as the basis for a dual classification of executive agents. It also serves, in the classical concept of parliamentary government, as the basis of an attempt to set theoretical limits to the control of parliament over the executive. The theory is in appearance simple enough. French students in general subscribe to it. "The political control of Parliament," runs a typical statement of it, "rests on this idea: the Government and Parliament must be in accord in respect of the general direction of policy; therefore, the control of Parliament ought to intervene only in questions of general policy, and administrative action properly speaking ought to remain independent of Parliament."⁸³ This statement, it is true, goes somewhat further than the classic theory of parliamentary government requires. It connects causally two principles which are clearly complementary but which do not appear necessarily to be the logical conclusion one of the other. The first principle is everywhere recognized to be true of parliamentary government. Parliament should control the executive in questions of general policy. At the same time, though control ought undoubtedly to stop there, the principle cannot be deduced from the first proposition. The question might very reasonably be asked why Parliament, if it has the function of controlling the executive, should stop short before reaching a large and very important sphere of the work of the executive. The explanation appears to rest on the twofold consideration of capability and responsibility. Parliament, though in theory the representative through universal suffrage of the sovereign will of the people, is no more capable of performing all the work of government than are the people themselves. Accordingly, a large part of the executive work of government, which has been said to be the most technical of the functions of government,⁸⁴ must be entrusted to others. "A parliament," it has been said, "is made to control the administration of a country, not to administer the country."⁸⁵ In respect of administration, the legislature, it would seem, must confide wholly and absolutely in those to whom the work has been entrusted. To the legislature only the indirect influence can properly remain which results from the direct control of parliament over the general policy of the

⁸³ Duguit, "Le Fonctionnement du régime parlementaire en France," *Revue politique et parlementaire*, 1900, t. 25, p. 367.

⁸⁴ Hauriou, *Principes de droit public* (2^e éd., Paris, 1916), pp. 714, 719.

⁸⁵ Chardon, *Le Pouvoir administratif* (Paris, 1912), p. 14.

ministers. If, in order for government to be made possible, responsibility is organized in a hierarchy, any element in the series which goes over the head of another element, for the purpose of dealing directly with a still lower element, encroaches on the domain for which another is responsible. Responsibility thus becomes divided. This means that in the result responsibility disappears. "It is not," runs a summary of the matter, "the ministers who ought to be responsible before the parliament for the carrying on of the public services; it is the permanent functionaries who ought to be responsible before the ministers for the carrying on of these services; and the ministers can be responsible only for the control which they exercise over the permanent functionaries."⁶⁶

Though this is a conception of a somewhat delicate arrangement, it is an arrangement which, it would seem, must exist as a condition for the effective operation of any organization of considerable size, of a complex nature, and with fairly extensive responsibility. The conception of such an arrangement furnishes a standard by which should be judged the relationship of the legislature and the executive in general, and of the legislative committees and the executive in particular.

In France, no suggestion is made that the classic concept of the relation of the Legislature to the routine executive serves as a guide in practice. On all hands, abundant testimony is offered to support the fact that encroachment is the general rule. "The Chamber," writes a distinguished jurist, "tends more and more to mix into all the parts of administration; it wishes to make its action felt in all the details of administrative life."⁶⁷ The very unwillingness on the part of Parliament for the enormous theoretical strength of the executive to rest anywhere but in its own hands ensures a practical interest in the details of administration. The traditional distrust of the executive is connected with the traditional characteristics of bureaucracy. "The logic of events," wrote an opponent of the grand committees in 1889, "will cause the committees and their most active and influential members to penetrate into the domain of the administration and to exercise there a direct action which according to the spirit of our Constitution ought not to belong to Parliament."⁶⁸ A year later this kind of prediction was accepted as true and advanced as an argument in favor of a system of grand committees. "The enemy is not the Government," asserted an advocate of the proposed grand committees, "but the bad spirit of the Government; it is the bureaux, the administrations; it is this perpetual routine, over which we have no control but over which

⁶⁶ *Ibid.*, pp. 14-15.

⁶⁷ Duguit, *loc. cit.*

⁶⁸ M. Francis Charmes, J. O., 1889, Docs. Ch., S. E., no. 173 (12 décembre), p. 337.

we should have a very serious one if we should organize the grand committees."⁶⁰ With a system of grand committees established, correspondence between opinion and fact became a reality. The committees are in some instances even authorized by law to go beyond the Minister and to maintain a direct oversight of administrative services.⁷⁰ A committee may in this respect act in a body. Its most innocuous form of relationship with the civil service is seen in the appearance of functionaries for questioning before the committee. In fact, in this single case, the attitude of the committees seems to be formally correct. The appearance of the functionary is requested through the Minister, and the functionary is heard only in the presence of the Minister. More typical and more striking are investigations pushed into the Ministries and into the country at large. In these, the committee more frequently acts through a "delegation," a sub-committee, a reporter, or even a single private member. Whatever the method, this "most serious, most direct, and most profound outrage to poor Montesquieu, direct control of a service by a committee,"⁷¹ is well established. Especially was this apparent during the World War. The very exaggeration which resulted from crisis served to bring out in clear relief the true lineaments of accepted views and prevailing practice.

The Grand Committees and the World War

During the World War, the whole life of the French nation was, of course, subordinated to the prosecution of hostilities against another nation on an unprecedented scale. The Government, as the organ of action in the state, was encouraged to bend every energy to the task in hand. Yet the extent to which the Government was recognized to be free to act in a manner which seemed to it best was varyingly doubtful. The whole question of the control of the Government by Parliament in time of war was raised. Several answers to the question of the powers of the

⁶⁰ M. Henry Maret, J. O., 1890, Débs. Ch., 7 février, p. 205. A somewhat similar but stranger argument had been employed in 1885 by M. de Jouvencal in support of his proposal. See J. O., 1885, Docs. Ch., S. E., no. 70 (21 novembre), p. 285. "Not only," he wrote, "will the committees not impede the action of the Government; but when the ministers wish to consult them, they will be a powerful help against that obscure and subservient despotism which too often binds them. They will be able more easily to have their own decisions executed and to watch over administrative details."

⁷⁰ Cf. Joseph-Barthélemy, *op. cit.*, pp. 224 *et seq.* Such control is of particular interest and importance, as the War showed, in connection with military affairs. For a significant proposal in this connection, see J. O., 1927, Docs. Ch., S. O., no. 4434 (24 mai), p. 737. For the attitude and activities of the committee on the army in the Chamber, consult *Bulletin des commissions*, *passim*, e. g., no. 2, 3 juillet 1928, p. 24; no. 17, 19 février 1929, p. 35.

⁷¹ Joseph-Barthélemy, *op. cit.*, p. 222.

Government were suggested. The grand committees of the Chambers took on an importance which was considerably greater even than that which they normally assume in time of peace.⁷²

So far as the organization of the public powers was concerned, France was altogether unprepared for the War. All the provisions of the Constitution, which establishes only the barest outline of a governmental system, presuppose a condition of peace. No arrangement exists for readily adapting the form of government to the exigencies created by a state of war. Suggestions which have been made in the past that this situation be remedied through the amendment of the Constitution have been scouted as the proposals of alarmists. Nothing has been done in this respect. The end of the summer of 1914 found Parliament absent on its usual summer vacation. The Government was suddenly faced with the greatest war in history. As a result, the legislative branch of government had no opportunity during the last days of July for deliberating on the series of serious events which so rapidly shaped themselves. In these circumstances, the members of the Senate and of the Chamber of Deputies were called together for the fourth of August.

The principle which prevailed in France at the beginning of the War was that which seems to have been most generally accepted in theory before 1914. It was that in time of war power ought to be almost wholly concentrated in the hands of the Government and that as a consequence the legislative Chambers ought to be for practical purposes eliminated.

Parliament met at the appointed time for an extraordinary session of short duration. After a few days in which, party differences being for the moment forgotten, the necessary appropriations were voted and the Government was granted practically absolute powers for carrying on the War, the session was closed by executive decree.⁷³ The prediction was made on all sides that the War would be of the shortest duration. The Chambers probably expected to meet in their usual extraordinary autumn session in order to discuss the terms of peace.

Events did not proceed altogether favorably under Government direction. Paris barely escaped capture, and the seat of government was transferred to Bordeaux. There was some expectation that Parliament would be reassembled. This, however, did not transpire. The statement was given out that no suitable meeting place for the Chambers was to be had

⁷² For simple accounts of events during the War, reference may be made to Républicain, "L'Œuvre de guerre du parlement," *Le Fait de la semaine*, 6 octobre 1917; Joseph-Barthélemy, "Nos institutions politiques et la guerre," *Revue des sciences politiques*, 1917, p. 360.

⁷³ Only, however, when the seat of government had been moved to Bordeaux.

in Bordeaux. Some people asserted this to be an excuse, others a valid reason. Furthermore, about one third of the members of Parliament had been mobilized, and the question of their status in the event of a meeting of the Chambers was uncertain.⁷⁴

In the first flush of the victory on the Marne, renewed willingness was manifested to leave the conduct of affairs to the Government. However, once more there was disappointment. The War settled into the stable affair of the trenches; and new ideas concerning its duration began to arise. According to the Constitution, Parliament would in the ordinary course of events be automatically convened on the second Tuesday in January. At the same time, necessity for provisional appropriations to be voted before the beginning of the new fiscal year on January 1 demanded that the Chambers meet in the closing days of December. The members of Parliament could, therefore, look forward with certainty to being once more called together. They turned their attention to the question of resuming control over a Government which did not seem to them altogether to have deserved the confidence which had been imposed in it. The first period of the War was coming to an end. It was marked by "a veritable dictatorship of the Government, with no constitutional control."⁷⁵

After the short extraordinary session at the end of 1914, the Chambers convened at the beginning of 1915 for their regular session. They appear to have been determined no longer to remain mere spectators of the action of the Government. They were convinced that "Parliament's powers of finance, of legislation, and of control must have their part in the victory."⁷⁶ As a consequence, a marked tendency to push matters to an extreme was manifested. Gradually the idea was evolved that the control exercised by Parliament over the action of the Government ought to assume proportions considerably larger than those recognized by the accepted principles of parliamentary government. In fact, the proposal was made that Parliament should directly control the executive services and the armies in the field. The theory of *direct delegation* was put forward.⁷⁷ This theory gained favor with Parliament to such an extent that a year later the Chamber of Deputies accepted it by an overwhelming majority. In June of 1916, the Chamber passed the following order of the day: "The Chamber decides to institute and to organize a direct delegation which will exercise on the spot, with the coöperation of the

⁷⁴ Cf. Pierre, *Traité de droit politique, électoral et parlementaire* (5^e éd., 2 vol., Paris, 1929), no. 342.

⁷⁵ Républicain, *op. cit.*, p. 16.

⁷⁶ Joseph-Barthélemy, *loc. cit.*

⁷⁷ Cf. *Le Temps*, 12 juillet 1916,

Government, an effective control of all services having the mission of providing for the needs of the army."⁷⁸

The theory of direct delegation is manifestly contrary to the principles of parliamentary government. As a consequence of the adoption of the theory, the Government would be deprived of all real freedom of action. Its responsibility would consequently disappear. Since a body, or two bodies, of several hundred men cannot be said in any real sense to be responsible, all responsibility would be destroyed. No greater misfortune, it has been suggested, could befall a nation in the name of democracy.⁷⁹

In France, the Chamber of Deputies, within the period of a month, reversed the decision which anticipated the establishment of direct delegation. The Government suddenly showed great strength. It was faced with the possibility of an abdication which would have left no place in the conduct of affairs for a self-respecting Government. "That," exclaimed the Prime Minister, M. Briand, "is an impossibility."⁸⁰ Accordingly, in connection with the question of carrying out in practice the intention of the resolution of the Chamber, opposition on the part of the Government to a plan proposed by the grand committee on the army caused the defeat of the whole scheme of direct delegation.⁸¹ Within approximately one week of the introduction of the plan proposed by the grand committee on the army, the Chamber adopted by the somewhat narrow majority of 269 to 200 a resolution which proposed to confide to its grand committees the control of the Government during the War.⁸² Since the grand committees, no matter what the theory, already normally exercised in practice considerable control of the Government, the *status quo* was in reality unaltered. The resolution added as its only innovation the provision that the committees should present a quarterly report to the Chamber. In the result, no extreme theory of fundamentally altered relations of the legislature and the executive gained permanent acceptance in France during the War. Parliamentary government as it is practised normally in that country was merely adapted to the exigencies of war.

When the Chambers found themselves in a position to exercise once more their control over the executive branch of government, Parliament, without need for a resolution like that passed in the Chamber, employed as organs the grand standing committees. Thus, on the first day of the extraordinary session in December of 1914, the Senate in-

⁷⁸ J. O., 1916, Débs. Ch., 23 juin, p. 1296.

⁷⁹ Joseph-Barthélemy, *loc. cit.*

⁸⁰ J. O., 1916, Débs. Ch., 21 juillet, p. 1609.

⁸¹ See *ibid.*, 8 juillet, p. 1502; 19 juillet, pp. 1572 *et seq.*; 21 juillet, p. 1601 *et seq.*; 25 juillet, pp. 1645 *et seq.*; 26 juillet, pp. 1668 *et seq.*; 28 juillet, pp. 1728 *et seq.*

⁸² *Ibid.*, 28 juillet, p. 1728.

creased the size of its committee on the army and renewed its membership.⁸⁵ To it were elected the most able private members of the Senate.⁸⁴ The committee was presided over by M. de Freycinet, who in the course of the War gave evidence of his preëminent fitness to lead a committee "which furnished an example of what parliamentary control ought to be in time of war."⁸⁶ The Senate committee on the army showed from the beginning an activity which in considerable measure furnished support for this favorable appraisal.⁸⁶ The extraordinary session was soon over, but the regular session began almost immediately. The Minister of War was summoned to the Senate before the committee on the army. He was minutely questioned for several hours by the president of the committee concerning the direction of the War, the plans for the future, and the resources of the country. "It was an exciting day at the end of which it may be said parliamentary control in the War took its rise."⁸⁷ This committee continued to make exacting demands on the time of the Minister of War and of the Prime Minister.⁸⁸ After several of these meetings, the Prime Minister complained privately that his strength was almost at an end.⁸⁹ Partizans of this kind of control asserted that the committee, by reason of the excellence of its personnel and especially of its president, was above any suspicion of personal political ambition. At all events, it was able to exercise to the fullest the newly reassumed parliamentary control over the Government. The committee was divided into sub-committees, each dealing with a particular aspect of the prosecution of the War. These sub-committees displayed ceaseless activity. They insisted on examining everything and on examining things on the spot. They accordingly insisted on going everywhere, both in the rear and on the front. They visited factories and offices, especially the offices of the Ministers themselves.

The results of the investigations of the sub-committees were incor-

⁸⁵ There was a general tendency to increase the size of committees during the War. Cf. Ch. IV, *supra*.

⁸⁴ E. g., M.M. Clemenceau, Bourgeois, Doumer, Milliès-Lacroix.

⁸⁵ Joseph-Barthélemy, "Nos institutions politiques et la guerre," *loc. cit.*, p. 368.

⁸⁶ For a wealth of material concerning the activities of this and other important committees, consult Mermeix, *Au Sein des commissions* (Paris, 1924), *passim*. According to M. Poincaré, *Au Service de la France, VIII: Verdun* (Paris, 1931), p. 103, M. Tardieu, who was later to be a bitter critic of the grand committees, refused on leaving the army to accept a mission to Rumania on the grounds that he preferred membership in the committee on the army in the Chamber, since the Chamber was better than people thought and mistakes could be avoided by the activity of this committee.

⁸⁷ Républicain, *op. cit.*, p. 30.

⁸⁸ See Poincaré, *op. cit.*, VI: *Les Tranchées 1915* (Paris, 1930); VII: *Guerre de siège 1915* (Paris, 1931), *passim*.

⁸⁹ *Ibid.*, VI, pp. 276-278.

porated into reports, which were approved by the sub-committees and submitted to the grand committee in plenary session. Here the reports received two readings. Ministers were consulted. As has been suggested, even the Prime Minister was summoned when necessity was felt to require his presence. The conclusions of the committee on the army were always unanimous. Their conclusions could not well be received with indifference.⁹⁰ Many of the efforts of the committee were in the result creative. For example, the committee concerned itself first of all with munitions. The enthusiastic claim has even been made that the French heavy artillery was born in this committee. At the very least, the committee beyond any doubt played an important part in overcoming the prejudices of a rigid bureaucracy. Another matter in which the committee on the army in the Senate, as well as the other committees, seems to have had a large share in positive accomplishment was the institution of important under-secretaryships such as those for munitions, for the sanitary service, for the commissariat, and for aviation.⁹¹

The Senate, not satisfied to confine its control of the Government to such matters as were being studied by the committee on the army, set up in February of 1915 a committee on foreign affairs.⁹² This committee added its efforts to those of the committee on the army. It led the other grand committees in examining questions of diplomacy in ways which went to unheard-of lengths. The committees demanded documents dealing with the most delicate matters, and they showed that they were not to be put off with expurgated editions. They were not satisfied, it has been said, with anything less than everything.⁹³ Many of the matters which they examined could not, of course, be made public; but a few unfortunate leaks seem to have occurred.⁹⁴ Altogether, a much more effective control of the Government was instituted than is generally regarded as being possible. Such events especially as the Dardanelles and Salonika expeditions, the entrance of Bulgaria into the War, and the alleged shortcomings of Greece caused the grand

⁹⁰ The voluminous reports of the committee on the army, veritable mines of information, were published after the War. See J. O., 1919, Docs. Ch., no. 6995 (30 septembre), pp. 2926 *et seq.*; no. 6999 (1^{er} octobre), pp. 2963 *et seq.*; no. 7128 (14 octobre), pp. 3099 *et seq.*; no. 7259 (19 octobre), pp. 3411 *et seq.*; no. 7260 (19 octobre), pp. 3445 *et seq.*

⁹¹ Cf. in these matters Joseph-Barthélemy, *Démocratie et politique étrangère*, p. 334, "Nos institutions politiques et la guerre," pp. 362-363; Républicain, *op. cit.*, pp. 33, 36, 43, 58; Justin, *La Responsabilité du parlement sous le régime parlementaire* (Paris, 1918), pp. 19, 26; Fournol, *op. cit.*, p. 59.

⁹² J. O., 1915, Docs. Sén., S. O., no. 7 (21 janvier), p. 6; Débs. Ch., 30 janvier, p. 22, 5 février, p. 26.

⁹³ Républicain, *op. cit.*, p. 42.

⁹⁴ Cf. J. O., 1918, Docs. Ch., no. 5066 (15 octobre), p. 1261.

committees to become more and more ardent seekers after truth.

The Chamber of Deputies soon followed the lead taken by the Senate. The grand committees of the Chamber presented an appearance of activity similar to that of the Senate committees. They concerned themselves with questions varying from the problem of mobilized Deputies and of the proper utilization of the man power of the country to the all important consideration of the economic organization of the nation. More specifically, the committee on general, departmental, and communal affairs exerted on the Government sufficient pressure to cause its acceptance of an organization of the vital areas of the country which, it has been said, "positively saved France."⁹⁵ Pressure from the same committee was necessary in order to secure realization of changes and improvements which experience showed to be necessary.

It was the experience of the Chamber with control, the constantly increasing momentum of this control, and the resulting impatience with the Government on the part of the Chamber which in reality caused the principle of direct delegation to be voted. Reversal of this decision, however it may have affected what might have been, had little effect on the control exercised by the grand committees. The activities of the committees stopped at only one point. This was the question of the determination of military strategy. In the end, the Chamber did not rest content without seeking information even in this sphere. However, this was done in secret session.⁹⁶ It marks a third period in the history of parliamentary control of the Government during the War.

The grand committees met, of course, with serious obstacles. In the early years of the War, the Minister of War and the committee on the army were in almost perpetual conflict.⁹⁷ The Minister, who appears to have had some reason for distrusting a few of the members of the committee and for fearing that confidential information would leak out, appears to have made almost no efforts at conciliation. He is said to have appeared to the committee to be a "block of ice." The committee in turn is known to have gone so far on occasion as to complain to the President of the Republic and at one time to have drawn up formal articles of accusation against the Minister. A vice-president of the committee,⁹⁸ on several occasions when he was compelled to preside

⁹⁵ Hauser, *Le Problème du régionalisme* (Paris, 1924), p. 9. Cf. also *ibid.*, pp. 21 *et seq.*

⁹⁶ Such a secret session is called a committee (*comité*) in France; but this designation does not bring it within the scope of a study of normal legislative committees.

⁹⁷ For the interesting details of this conflict between M. Millerand and the committees, consult especially Poincaré, *op. cit.*, VI, pp. 46-47, 59, 61 *et seq.*, 71, 77-78, 110-111, 185-187, 196-197, 276-278, 283-284, 303, 308-309, 322; *ibid.*, VII, pp. 27, 32.

⁹⁸ M. Boudenoot.

in the absence of the president, is said to have dissolved into tears on each occasion upon reaching home, so violent had the meetings been. At the same time, certain limits were imposed by the very nature of things on the great power exercised by these committees, and consequently it is not surprising that marked parliamentary interest in direct delegation developed. However that may be, failure of direct delegation did not mean that limits on the control by the committees deprived their criticism of ultimate efficacy. In reality, the removal of an important officer in the War Department, whose antiquated ideas were felt to be a deterrent in the vigorous prosecution of the War, is attributed to committee action. Moreover, it was before opposition of a grand committee that an under-secretary for aviation resigned his position.⁹⁹

The great activity of the grand committees in France during the War, their large share in the control of the action of the Government, and their positive accomplishments are matters of fact. They are part of common knowledge. The passage of time for the most part results merely in the addition of details.¹⁰⁰ In reality, even during the War, no doubt existed in respect of practical results. Tribute to the Chambers and their committees were paid even by Ministers who had been consistent opponents of the system of grand committees and by Ministers who were champions of executive independence.¹⁰¹ At the same time, the Government, as was natural, never lost sight of the possibility of abuse. The very conditions of crisis which caused the committees to become "flies on the coach wheel" gave great weight to serious protests on the part of the Government. When the Prime Minister had in 1916 secured the abandonment of the dangerous theory of direct delegation, he took occasion forcibly to remind the Chamber of the limits within which the grand committees ought to operate.¹⁰² He asserted that neither the committees nor their members ought on any condition so far to overstep the limits of their proper sphere as to encroach on that of the Government. He reminded the committees and their members that they possessed in no case the right to issue an instruction, an order, or even a suggestion. He pointed out that the committees could properly under-

⁹⁹ Cf. Joseph-Barthélemy, *Démocratie et politique étrangère*, p. 334.

¹⁰⁰ In addition to the citations already made, special reference may be made to such works as Marcellin, *Politique et politiciens pendant la guerre* (2 vol., Paris, 1923) and Ribot, *Lettres à un ami* (7^e éd., Paris, 1924). The budget committee of the War period later published on resolution of the Chamber of Deputies (J. O., 1919, Docs. Ch., no. 7212, p. 3180, and no. 7251, p. 3407; Débs. Ch., 20 octobre, p. 5272) a collection of 145 reports made to it on control and missions during the War. See J. O., 1919-1920, Chambre, Commission du budget, du 28 novembre-6 janvier, pp. 1-612.

¹⁰¹ E. g., M.M. Deschanel, Briand, and Ribot. Cf. J. O., 1916, Débs. Ch., 19 février, p. 320, and also Joseph-Barthélemy, *op. cit.*, p. 337 n.

¹⁰² Cf. J. O., *loc. cit.*, 21 juillet, pp. 1601 *et seq.*

take a mission at the front only at the request of the Government and in no other way. The Government would decide whether or not the presence of the committees in the zone of the armies was calculated to interfere with the action of the military authorities. Whatever might have been done and was done within these limits, the committees, by what was apparently an inevitable and irresistible tendency, were not content to remain and did not in practice remain within the sphere defined.

The Grand Committees and Foreign Affairs

The question of legislative control over the executive is in the average mind most naturally associated perhaps with everyday matters of internal policy. At the same time, the question likewise clearly involves control in matters of foreign policy. This is not the less true because control of this sort involves problems of a peculiar character. In practice, the field of foreign affairs has probably been the sphere in which control by the legislature of executive policy and action has been least exercised. Theories have even existed that in this sphere control ought not to be attempted.¹⁰³ Others have held that the nature of the case is such that control cannot be exercised. On the other hand, the argument from practice is not always convincing. An apparently increasing opinion asserts that whatever the practice may have been or may be in a given case, foreign affairs ought not to be removed wholly or in considerable part from legislative control. The solution most frequently suggested is the institution of a legislative committee.¹⁰⁴

France has, of course, attempted the expedient of establishing committees on foreign affairs. In reality, the existence of the French committees as instruments of control may be regarded as a manifestation of the changing attitude which has been caused by democracy toward legislative control in matters of foreign policy. A country which practises parliamentary government appears to have ready to hand in the cabinet a small body well fitted to conduct foreign affairs. Moreover, the executive branch of government is traditionally regarded as the proper representative of a country in its relations with other nations. Apparently all present-day theories admit that at least the initiative in these matters must belong to the executive. France is no exception. A tradition of long standing gives to the Government a large part to play in the conduct of foreign relations. At the same time, in each of the

¹⁰³ Cf. *Le Temps*, 21 décembre 1913.

¹⁰⁴ Cf. in this respect *Treatment of International Questions by Parliaments in European Countries, the United States, and Japan* (1912, Misc. Cmd., No. 5).

Chambers a special grand standing committee now likewise concerns itself with foreign affairs.

Before the institution of the grand committees, the instrumentalities and opportunities for parliamentary participation in matters of foreign policy were not extensive. The Constitution of France stipulates that most treaties of importance, though of course negotiated by the Government in the name of the President of the Republic, must be ratified by Parliament.¹⁰⁵ Formerly, when such a treaty was presented to the Chambers, it was referred according to prevailing practice to a special committee named after discussion of the treaty in the bureaux. The special committee regularly recommended to the Chamber that the treaty be ratified. The Chamber likewise regularly accepted the recommendation of its committee. The reason for this was simple. The unilateral amendment of a treaty being impossible, no other alternative to acceptance of the treaty as negotiated by the Government was offered except the highly undesirable and highly undignified act of repudiating undertakings which had been entered into by the Government in the name of the nation. At the same time, the discussion of treaties in the bureaux, in the special committee, and in the Chamber, however certain the outcome, was, if not highly valuable, far from being altogether useless. Therefore, discussion of this sort may be listed, along with annual discussion in committee and in public session of the budget of the Ministry of Foreign Affairs and along with questions and interpellations, as one of the means formerly, as well as at present, at the disposal of the Chambers for controlling foreign policy.¹⁰⁶

Of the several lists of grand committees contained in the various proposals unsuccessfully introduced into the Chamber of Deputies during the last quarter of the nineteenth century, several included a committee on foreign affairs. Others made no mention of such a committee. Moreover, during the period when the Chamber was accustomed to establish a number of independent grand committees, without being willing to incorporate a system of these committees into its règlement, no committee on foreign affairs existed. However, such a committee was included in the list introduced into the règlement for the first time in 1902.¹⁰⁷ It was called the committee on external affairs, the protectorates, and colonies. The same name was retained in the new list of committees included in the new règlement of the Chamber adopted in 1915.¹⁰⁸ In

¹⁰⁵ Law of July 16, 1875, Art. 8.

¹⁰⁶ Cf. for these matters, Joseph-Barthélemy, *op. cit.*, pp. 131 *et seq.*

¹⁰⁷ J. O., 1902, Débts. Ch., 18 novembre, p. 2625. Concerning this committee, see *Le Temps*, 23 juillet 1910.

¹⁰⁸ J. O., 1915, Débts. Ch., 30 janvier, p. 72.

1920, a new arrangement was made.¹⁰⁰ The grand committee which exists at the present time was established solely for the study of foreign affairs.

In spite of the fact that no grand standing committee on foreign affairs existed in the Chamber previous to 1902, no objection was raised on any side to the inclusion of such a committee in the list of those adopted at the beginning of the eighth legislature. The reason for this lack of opposition is not difficult to conjecture. The professed object of the establishment of a system of grand standing committees was that of enabling one and the same committee to study related questions, instead of distributing such matters to various special committees. As examples of such special committees, committees set up from time to time to study treaties negotiated by the Government were known to all. Moreover, various questions concerning the protectorates and colonies came before the Chamber at times for solution. Hence, the suggestion doubtless appeared perfectly natural that a general committee be established within the sphere of which questions of this kind would fall. Furthermore, opposition to a system of grand standing committees had at last effectively been overcome. The last voice predicting the inevitable confusion of the public powers had for the time been silenced. No one was left who felt called upon to oppose the establishment of a grand committee in a field where the authority of the Government was best founded and seemed least likely to be disestablished. Indeed, the fact appears to be that the committee was not at that time regarded, and continued not to be regarded, as one of paramount importance. At all events, when in 1912 the question of control of secret treaties was suddenly presented to the Chamber, no one seems to have thought that the Chamber possessed in the committee on external affairs, protectorates, and colonies a body suited to control the Government in its power to negotiate secret treaties.¹¹⁰ This appears to be evidence that the grand committee was regarded as a harmless body, exercising no effective control. When a proposal was made that serious control in the matter be instituted, the Government rose in opposition and received the support of the Chamber. The occasion was the introduction by about fifty Deputies of a resolution which proposed amendment of the Constitution. The proposers were known to have in mind a small committee consisting of members from both Chambers who should remain in close contact with the Government and maintain a definite control of its foreign policy. The proposal was defeated by the large majority of 372

¹⁰⁰ J. O., 1920, Débs. Ch., 28 janvier, p. 68.

¹¹⁰ For this episode, see J. O., 1912, Débs. Ch., 2 mars, pp. 551-556.

to 146. M. Poincaré, Prime Minister and Minister of Foreign Affairs, was roundly applauded when he said: "I am not sure that it would not involuntarily paralyze diplomatic action instead of proving of benefit and of service to it."¹¹¹ It remained for the World War to give to the committee on foreign affairs the important position in the Chamber which it now possesses.

In the Senate, where the regular system of grand committees was not adopted until 1921, a committee on foreign affairs was in 1915 added to the limited list of independent grand committees existing in that body. Attempts in former years to establish such a committee had apparently found little favor.¹¹² At the beginning of the World War, the absence of a committee on foreign affairs was quickly felt. The want was not long in being supplied. In January of 1915, a resolution sponsored by forty Senators proposed the institution of an annual committee on foreign affairs.¹¹³ The claim was made by its advocates that if such a committee had been in existence from the beginning, relations between the Senate and Ministers would have been much more satisfactory. There would have existed, it was argued, a very desirable continuity of action during the tenure of successive Ministers of Foreign Affairs. The Minister, it was asserted, would have possessed more authority and more power in his negotiations. The Senate in turn would have been assured of a necessary though discreet control. Furthermore, the absence of a committee on foreign affairs in the Senate, according to the argument of its advocates, put the two Chambers on an unequal basis. The Constitution, it was contended, not only does not favor the Chamber of Deputies in this respect but, on the contrary, "intended more especially to facilitate for the Senate the study of foreign questions."¹¹⁴ At all events, the Senate was quick to recognize the desirability of such a committee. At the end of a fortnight, this resolution was voted: "There shall be named every year by the Senate in its bureaux . . . a committee on foreign affairs composed of twenty-seven members."¹¹⁵

During the World War, as has been seen, the grand committees of the Senate were at least the equals of the committees of the Chamber in the greatly increased control assumed over the action of the Govern-

¹¹¹ *Ibid.*, p. 556.

¹¹² Cf. J. O., 1907, Docs. Sén., S. O., no. 100 (23 mars), p. 63, no. 151 (11 juin), pp. 424, 495; J. O., 1909, Docs. Sén., S. O., no. 69 (25 février), p. 950; J. O., 1913, Docs. Sén., S. O., no. 7 (30 janvier), p. 2, no. 53 (6 mars), p. 88, no. 58 (6 mars), p. 89, no. 251 (26 juin), p. 1068, Débs. Sén., 28 mars, p. 370, 18 décembre, pp. 1554, 1560.

¹¹³ J. O., 1915, Docs. Sén., S. O., no. 7 (21 janvier), p. 6.

¹¹⁴ *Ibid.*, p. 7. Cf. Pierre, *op. cit.*, no. 339.

¹¹⁵ *Ibid.*, Débs. Sén., 5 février, p. 26.

ment. Among the committees of the Senate, the committee on foreign affairs played a part of supreme importance. The committee, increased to thirty-six members, took its place as the committee on foreign affairs and general policy of the colonies and protectorates on the list of grand committees set up in the Senate in 1921.¹¹⁶ In 1923, its sphere of activity was slightly narrowed by the exclusion of colonial affairs from its jurisdiction.¹¹⁷ The committee continues, by reason of its personnel and of its influence, to rank among the most important of the Senate grand committees.

Other grand committees than the committees on foreign affairs in the Chamber and the Senate are concerned with matters involved in the external policy of the country. Accordingly, they exercise a greater or lesser control of the Government in this sphere. Such committees are the grand committees on the army, the grand committees on the navy, the grand committees on customs, and the grand committees on commerce. These committees naturally play a relatively minor rôle. At the same time, their connection with certain aspects of foreign affairs is of considerable importance. In the case of the committees on customs and the committees on commerce especially, an extension of influence appears altogether natural in view of the increasing importance of the economic aspects of foreign relations.¹¹⁸ Finally, the notorious encroachments of the committee on finance do not stop short at the borders of the sphere of foreign affairs. Control of foreign relations, like all control, being dependent in the last analysis on the power of the purse, the reporter of the budget of the Ministry of Foreign Affairs usually undertakes an exhaustive study of foreign policy and writes a voluminous account and criticism of the Ministry. The committee expresses an opinion on practically every question of foreign policy and may even supplant the committee on foreign affairs in dealing with the principle of such a question.¹¹⁹ In fact, Deputies whose primary interest is foreign affairs sometimes prefer membership on the committee on finance to membership on the committee on foreign affairs.¹²⁰

The foreign affairs committees differ from the other grand committees in one important and interesting respect. They are primarily committees of control. The other grand committees perform in general the same functions which the Chambers perform. Control of the executive

¹¹⁶ J. O., 1921, Débs. Sén., 19 janvier, p. 22.

¹¹⁷ See *Règlement du Sénat*, art. 15, 3^o n.

¹¹⁸ (Joseph-Barthélemy), "Ce qui se passe à la commission des affaires étrangères," *Revue hebdomadaire*, no. 40, 7 octobre 1922, p. 96.

¹¹⁹ See Ch. VI, *supra*.

¹²⁰ Cf. in these respects, Joseph-Barthélemy et Paul Duez, *op. cit.*, pp. 829-830; Joseph-Barthélemy, *Essai*, p. 324, and "Procès de la commission des finances," p. 256.

is, of course, one of these. At the same time, this function is closely interrelated with legislation and financial administration. The committees on foreign affairs are not even in theory legislative committees. They examine very few measures of a legislative character. "The principal, the essential, the normal mission of the committee is to control the direction which the Government gives to the foreign policy of the country."¹²¹

Membership on the committees on foreign affairs is much coveted. The committees thus include in their membership many of the most illustrious members of Parliament. These often include, as has been suggested, former Prime Ministers and others who have been members of the Government.¹²²

Though the record of the committees on foreign affairs has not been altogether without blemish, they have on the whole appeared to devote themselves to the public interest. Members of the committees had during the World War an opportunity to view the inside of matters of the highest importance and the greatest delicacy. Only slight suggestion of ill result has been made. The precedent was thus a weighty one. The older contention that this kind of control is incompatible with efficient diplomacy has been disproved by the facts. Since the War, the view appears to prevail that the Government can and should in general share with Parliament its knowledge of foreign affairs and its attitude toward them. The same view naturally regards a committee as a proper and a safe means. In fact, the Minister of Foreign Affairs has in practice taken the frank position that information may in some cases be divulged to the committee which cannot be shared with the Chamber as a whole.¹²³ Normally secrecy can be assured by a simple undertaking on the part of the committee. If any members decline such an undertaking, they defeat their own purpose; for in such circumstances, the Government must naturally refuse to communicate confidential matters to the committee.¹²⁴

The committees on foreign affairs seem to be establishing a praiseworthy tradition. At their best, they make possible a closer and dis-

¹²¹ (Joseph-Barthélemy), "Ce qui se passe," p. 94. Cf. also Joseph-Barthélemy, *Essai*, pp. 258-259, 269. A somewhat unusual concept of the nature of control, according to which the committees on foreign affairs do not control but merely make control possible for the Chambers, may be found in Chow, *Le Contrôle parlementaire de la politique étrangère en Angleterre, en France et aux États-Unis* (Paris, 1920), pp. 196-197.

¹²² Cf. Joseph-Barthélemy, *Essai*, p. 260.

¹²³ *Ibid.*, p. 269.

¹²⁴ Cf. the first edition of the work of MM. Joseph-Barthélemy et Paul Duez (Paris, 1926), p. 450.

tinctly desirable relationship between the Government and the Chambers. The attitude of Parliament toward the Government is markedly improved by the consciousness, on the part of the Chambers, that some of their best qualified members share with members of the executive a knowledge of the various elements entering into the foreign relations of the country. Moreover, even in the matter of the negotiation of treaties, where it is agreed on all sides that the initiative belongs to the executive branch of government, the Government has its hands strengthened and its authority increased if it proceeds with the assurance that it possesses the support of the most enlightened opinion of the representatives of the nation.

CONCLUSION

THE conditions in which the French variant of parliamentary government operates appear destined to continue to receive at the hands of students of public affairs an attention undiminishing in interest. These conditions have offered ample foundation for the generalization that the French parliamentary system suffers from a chronic unhealthy condition, marked by periodic *crises*. This situation, it has been several times suggested, is such as to render certain one of three eventualities: dictatorship, revolution, or reform.¹

Prophecies concerning the possibility of direct action in France, which would in the hypothesis result in dictatorship or revolution, involve perhaps more than the general uncertainties of prophecy. However that may be, only an exaggerated confidence could assert with certainty that these two results are outside the realm of possibility. On the whole, however, they may perhaps safely be said to be unlikely. Therefore, which of the two is the more probable becomes a highly relative and almost wholly academic question. In spite of certain indications to the contrary during the critical events of 1934, a revolution of the Right appears on the balance, if anything, less likely than a revolution of the Left. If it is true that neither is very probable, France will remain the principal European defense of democracy.

The connection between the fate of democratic government and of the French parliamentary system gives to the question of the reform of parliamentary government in France an importance by no means confined to that country. Since the French system is itself so important, only the extreme assumption that the system is beyond criticism could render its reform unimportant. In reality, such an assumption need not be taken seriously. It is contrary to the admitted chronic anti-parliamentary sentiment in France, which breaks out periodically in such a way as to cause serious emergencies.

The acuteness of the crisis of 1934 was matched during the same period by the intensity of interest in constitutional reform. The current employment of the even broader expression "reform of the state" was an indication of the exceedingly wide range which the numerous inter-

¹ Cf. Ch. Benoist, "La Parlementarite," *Revue des deux mondes*, t. 26, 1925, p. 761.

connected proposals made at the time covered. The grand committees not unnaturally came in for considerable attention. Thus, for example, the Committee on Reform of the State in the Chamber of Deputies, in its *communiqué* of April 26, placed at the head of its recommendations "reorganization of the grand parliamentary committees."² Other recommendations and other discussions recognized the parliamentary committees for what they are: an integral element of parliamentary government as the system has been developed in France.

Every discussion of French parliamentary committees must recognize the distinction, which constantly was manifest during the debates concerning the establishment of the grand committees, between the institutional and the constitutional aspects of the matter. At the same time, though the distinction ought to be made, the obviously close interrelationship between the two aspects of the question cannot be neglected. In reality, little danger appears to exist that the connection will be ignored. No examination of the French grand committees as an institution can proceed far without encountering the simple fact that these committees form an integral part of the parliamentary system of government as it is practised in France. In other words, the constitutional aspect of the matter immediately intrudes itself. As a result, when the question of reform is raised in connection with the grand committees, matters of an institutional character are quickly transcended by matters of a constitutional character; that is to say, questions concerning number, size, method of selection, and the like, and questions concerning legislative procedure are immediately transcended by the question of the relationship between the executive and the Legislature and by the questions of leadership and responsibility. M. Poincaré was doubtless correct in a sense when he asserted that the French parliamentary system could be reformed by changes in procedure, and the successors of M. Doumergue may accomplish their aim of bringing about reform without change of the Constitution. At the same time, efficacious reform must undoubtedly go beyond institutions in the narrower sense of the term. More specifically, it must, like the so-called Doumergue Constitution, concern itself with public finance and ministerial responsibility rather than with legislative procedure.

The institution of the French grand committees, viewed as a question primarily of legislative procedure, leaves the impression that it was the consequence of an irresistible logic of events. In fact, this was the light

² Cf. B. Mirkine-Guetzévitch, "Revision of the Constitution in France," *Politica*, No. 2, August, 1934, p. 146.

in which advocates of grand committees in the earlier years of the Third Republic envisaged the matter. Original supporters of the institution of grand committees saw in this institution primarily an important means to an improved method of procedure. This indubitably was, and probably remains, the best case to be made for the grand committees. At least, it was the case which was advanced by the sincerest advocates of such committees.

The grand committees, once established, assumed their natural place in the simplified procedure which conditions had rendered necessary. In the making of French law they now perform a task of considerable proportions. Within certain limits, the task appears to be creditably performed. The system of committees is, of course, by no means perfect. Even exclusively from the point of view of legislation, the operation of the system may be readily admitted to leave much to be desired. At the same time, the shortcomings of the system of grand committees cannot properly be attributed wholly to the system itself. The system is at least equally as much an effect as a cause of the defects of French legislative procedure. In general, these defects appear to grow out of the unlimited individual initiative of bills. Since little, if anything, is done to check the results of this practice before the grand committees begin their operations, the committees are at least equally the victim of circumstances, as they are also representatives of the particular political temperament which fails to attack the evil at its source. Reform, therefore, though it involves the grand committees, involves them indirectly rather than directly. Moreover, just as the question of improvement of the grand committees transcends the committees themselves and involves the whole legislative procedure of which they are a part, so the problem of reforming legislative procedure transcends procedure as such and involves the whole governing process of which legislative procedure is a part. More specifically, the problem is, again, one of the relationship between executive and Legislature and, still more particularly, one of executive leadership and responsibility.

During the crisis of 1934, the insufficiency of the part played by the executive in the administration of public finance was much discussed.³ There can be little doubt but that at this time an arrangement like the English, whereby the sole initiative in finance belongs to the Government, had more popular support than at any time in the course of the

³ Cf., in respect of the various reforms proposed, Joseph-Barthélemy, "La Constitution Doumergue," *Revue politique et parlementaire*, t. CXLI, no. 480, 10 novembre 1934, pp. 225 *et seq.*

history of the Third Republic. In the general discussion of the matter, M. Doumergue and many others approved the establishment of this arrangement. Though M. Doumergue later compromised to some extent in the matter, he emphasized his conviction by proposing in respect of initiative in finance the amendment of the Constitution. Naturally, the proposed amendment made no reference to the grand committee on finance; and yet the proposal undoubtedly was directed in considerable measure at the committee and its well-known propensities. General discussion of the matter, in stressing the need for reform, condemned the committee on finance; and adoption of the proposed reform would undoubtedly have affected seriously the most powerful of the grand committees. It is manifest that in theory the changes desired could be accomplished without constitutional change. M. Doumergue's successor asserted that attention would be directed to the matter on this assumption. England has shown what can be done by a simple rule of procedure. At the same time, a certain amount of change in habits and opinion must be assumed; and only the future can show whether an equilibrium can be established between the political and the legal which will render possible a desirable solution.

If the French variant of parliamentary government is to be fundamentally reformed, the general aim, it would seem, must be that of modifying what Herbert Spencer called the superstition of the divine right of parliaments. This would appear to involve consideration of anything which may be regarded as genuinely calculated to fortify the position of the executive in the face of what is sometimes called the "omnipotence" and sometimes the "irresponsibility" of Parliament.

The fact that no connection exists in formal logic between the relationship of the executive and the Legislature and the relationship between general and local government does not lessen the potential importance for improvement of the parliamentary system of some kind of decentralization in France. The familiar advantages which are claimed for decentralization could not, of course, be expected directly to improve the relationship between Legislature and executive; but the argument is not untenable that decentralization, whether on older and accepted principles or on newer syndicalist lines, would result in a general condition of health for the body politic which would in turn furnish important elements of the necessary setting for any basic alteration in the relation of Government and Parliament.

At one time or another, suggestions have been made in France for nearly every sort of institutional reform alleged to make for equilibrium

between executive and Legislature. M. Doumergue, at the time of his recall from retirement at the beginning of 1934, is reported to have declared that "real democracy . . . involves a balance of power between the legislature and the executive."⁴ Since for France this means that the general object of reform must be fortification of the strength of the executive, the implications of M. Doumergue's proposals are exceedingly significant. In the course of his several months of power, the central issue became clearly defined. It was recognized to be and asserted to be the proposal of executive dissolution of the Chamber of Deputies. In April, the large Committee on Reform of the State in the Chamber of Deputies approved in principle, with only three votes needed for unanimity, the abolition of the existing provision which requires assent of the Senate in connection with dissolution. Nearly all reputable French students of government consider a tradition of effective dissolution of the Chamber a basic necessity for the proper working of the parliamentary system. Most foreign students would be likely to consider this the most important institutional reform which can be suggested in connection with the French variant of parliamentary government. If the Government were possessed of the weapon of dissolution, it would almost certainly cease to be at the mercy of Parliament. The average Deputy would undoubtedly find the prospect of standing for reelection a strong deterrent from voting to throw Ministries out of office with slight provocation. Majorities would tend to become more compact; sly defection would be more unlikely; and discipline would be improved. Responsibility and leadership would have excellent chances of developing into genuine realities.

The strengthening of the French executive within the limits of the parliamentary system may be regarded as a natural solution of the problem of reform. An artificial solution is also theoretically possible. In a form falling short of dictatorship, this would presumably involve a chief of state with something of the position of a dictator, but of a dictator limited by checks in the form of law and free institutions. No one can be wholly sure that it will not some day be attempted in practice. In reality, certain persons can undoubtedly be found in France who would advocate for that country an independent executive of a type similar to that found in the United States or Switzerland. The necessary reforms would presumably include a President of the Republic with real instead of theoretical power, Ministers chosen from outside Parliament and not responsible to it, and similar arrangements. However, on the whole, reform does not appear likely to take this direction. Probably a majority

⁴ Cf. B. Mirkine-Guetzévitch, *op. cit.*, p. 145.

of thinking Frenchmen would be loath to admit that French political genius and temperament are antipathetic to or incompatible with parliamentary government.

Admission of the inevitability of dictatorship, revolution, or reform with respect to French government and belief in the greater likelihood of reform do not necessarily preclude gradual evolution. Reform may in this context well mean slow and indefinite development rather than immediate and precise change. The tremendous reserve strength and vitality of France no longer need proof. After all, its parliamentary system has survived the World War and other acute crises. It survives a crisis, it will be remembered, only by some change. Alleviation of the worst ills of the system may appear afterward to have been wholly temporary; and yet, since conditions are never quite the same after a crisis as before, development does take place. This must have its influence on social education, development of which in turn is the only sound basis for institutional change. Impatience with the slowness of institutional change in reality results from failure to recognize that the improvement in habits and customs which education effects cannot manifest itself overnight. Such improvement, it must be admitted, sometimes seems an exceedingly slow process; but it is also very sure.

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